

# H. R. 28

IN THE HOUSE OF REPRESENTATIVES

Mr. ROTH introduced the following bill, which was referred to the Committee on Foreign Affairs

# A BILL

1        *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

SECTION 1. Titles I and II of this Act may be cited as  
the “Export Administration Amendments Act of 1985”.

# ADMINISTRATION ACT OF 1979

9 SEC. 101. For purposes of this title, the Export Admin-  
10 istration Act of 1979 shall be referred to as “the Act”.

## FINDINGS

1

2 SEC. 102. (a) Section 2 of the Act (50 U.S.C. App.  
3 2401) is amended—

4 (1) in paragraph (2) by striking out “by strength-  
5 ening the trade balance and the value of the United  
6 States dollar, thereby reducing inflation” and inserting  
7 in lieu thereof “by earning foreign exchange, thereby  
8 contributing favorably to the trade balance”; and

9 (2) in paragraph (3) by striking out “which would  
10 strengthen the Nation’s economy” and inserting in lieu  
11 thereof “consistent with the economic, security, and  
12 foreign policy objectives of the United States”.

13 (b) Section 2(6) of the Act is amended to read as fol-  
14 lows:

15 “(6) Uncertainty of export control policy can in-  
16 hibit the efforts of United States business and work to  
17 the detriment of the overall attempt to improve the  
18 trade balance of the United States.”.

19 (c) Section 2(9) of the Act is amended by striking out  
20 “achievement of a positive balance of payments” and insert-  
21 ing in lieu thereof “a positive contribution to the balance of  
22 payments”.

23 (d) Section 2 of the Act is amended by adding at the end  
24 thereof the following:

1           “(10) It is important that the administration of  
2       export controls imposed for foreign policy purposes  
3       give special emphasis to the need to control exports of  
4       goods and substances hazardous to the public health  
5       and the environment which are banned or severely re-  
6       stricted for use in the United States, and which, if ex-  
7       ported, could affect the international reputation of the  
8       United States as a responsible trading partner.

9           “(11) The acquisition of national security sensitive  
10      goods and technology by the Soviet Union and other  
11      countries the actions or policies of which run counter  
12      to the national security interests of the United States,  
13      has led to the significant enhancement of Soviet mili-  
14      tary-industrial capabilities. This enhancement poses a  
15      threat to the security of the United States, its allies,  
16      and other friendly nations, and places additional de-  
17      mands on the defense budget of the United States.

18          “(12) Availability to controlled countries of goods  
19      and technology from foreign sources is a fundamental  
20      concern of the United States and should be eliminated  
21      through negotiations and other appropriate means  
22      whenever possible.

23          “(13) Excessive dependence of the United States,  
24      its allies, or countries sharing common strategic objec-  
25      tives with the United States, on energy and other criti-

1 cal resources from potential adversaries can be harmful  
2 to the mutual and individual security of all those coun-  
3 tries.”.

4 DECLARATION OF POLICY

5 SEC. 103. Section 3 of the Act (50 U.S.C. App. 2402)  
6 is amended—

7 (1) in paragraph (3), by inserting before the period  
8 at the end thereof “or common strategic objectives”;

9 (2) in paragraph (7)—

10 (A) by striking out “every reasonable effort”  
11 in the second sentence and inserting in lieu there-  
12 of “reasonable and prompt efforts”; and

13 (B) by striking out “resorting to the imposi-  
14 tion of controls on exports from the United  
15 States” in the second sentence and inserting in  
16 lieu thereof “imposing export controls”;

17 (3) in paragraph (8)—

18 (A) by striking out “every reasonable effort”  
19 in the second sentence and inserting in lieu there-  
20 of “reasonable and prompt efforts”; and

21 (B) by striking out “resorting to the imposi-  
22 tion of export controls” in the second sentence  
23 and inserting in lieu thereof “imposing export  
24 controls”;

25 (4) in paragraph (9)—

1 (A) by inserting “or common strategic objec-  
2 tives” after “commitments” each place it appears;  
3 and

4 (B) by inserting before the period at the end  
5 thereof the following: “, and to encourage other  
6 friendly countries to cooperate in restricting the  
7 sale of goods and technology that can harm the  
8 security of the United States”; and

9 (5) by adding at the end thereof the following:

10 “(12) It is the policy of the United States to sus-  
11 tain vigorous scientific enterprise. To do so involves  
12 sustaining the ability of scientists and other scholars  
13 freely to communicate research findings, in accordance  
14 with applicable provisions of law, by means of publica-  
15 tion, teaching, conferences, and other forms of scholar-  
16 ly exchange.

17 “(13) It is the policy of the United States to con-  
18 trol the export of goods and substances banned or se-  
19 verely restricted for use in the United States in order  
20 to foster public health and safety and to prevent injury  
21 to the foreign policy of the United States as well as to  
22 the credibility of the United States as a responsible  
23 trading partner.

24 “(14) It is the policy of the United States to co-  
25 operate with countries which are allies of the United

1 States and countries which share common strategic ob-  
2 jectives with the United States in minimizing depend-  
3 ence on imports of energy and other critical resources  
4 from potential adversaries and in developing alternative  
5 supplies of such resources in order to minimize strate-  
6 gic threats posed by excessive hard currency earnings  
7 derived from such resource exports by countries with  
8 policies adverse to the security interests of the United  
9 States.

10 “(15) It is the policy of the United States, par-  
11 ticularly in light of the Soviet massacre of innocent  
12 men, women, and children aboard Korean Air Lines  
13 flight 7, to continue to object to exceptions to the  
14 International Control List for the Union of Soviet So-  
15 cialist Republics, subject to periodic review by the  
16 President.”

17 GENERAL PROVISIONS

18 SEC. 104. (a) Section 4(a)(2) of the Act (50 U.S.C. App.  
19 2403(a)(2)) is amended to read as follows:

20 “(2) Validated licenses authorizing multiple ex-  
21 ports, issued pursuant to an application by the export-  
22 er, in lieu of an individual validated license for each  
23 such export, including, but not limited to, the follow-  
24 ing:

25 “(A) A distribution license, authorizing ex-  
26 ports of goods to approved distributors or users of

1 the goods in countries other than controlled coun-  
2 tries. The Secretary shall grant the distribution li-  
3 cense primarily on the basis of the reliability of  
4 the applicant and foreign consignees with respect  
5 to the prevention of diversion of goods to con-  
6 trolled countries. The Secretary shall have the re-  
7 sponsibility of determining, with the assistance of  
8 all appropriate agencies, the reliability of appli-  
9 cants and their immediate consignees. The Secre-  
10 tary's determination shall be based on appropriate  
11 investigations of each applicant and periodic re-  
12 views of licensees and their compliance with the  
13 terms of licenses issued under this Act. Factors  
14 such as the applicant's products or volume of  
15 business, or the consignees' geographic location,  
16 sales distribution area, or degree of foreign owner-  
17 ship, which may be relevant with respect to indi-  
18 vidual cases, shall not be determinative in creat-  
19 ing categories or general criteria for the denial of  
20 applications or withdrawal of a distribution' li-  
21 cense.

22 “(B) A comprehensive operations license, au-  
23 thorizing exports and reexports of technology and  
24 related goods, including items from the list of  
25 militarily critical technologies developed pursuant

1 to section 5(d) of this Act which are included on  
2 the control list in accordance with that section,  
3 from a domestic concern to and among its foreign  
4 subsidiaries, affiliates, joint venturers, and licens-  
5 ees that have long-term, contractually defined re-  
6 lations with the exporter, are located in countries  
7 other than controlled countries, and are approved  
8 by the Secretary. The Secretary shall grant the  
9 license to manufacturing, laboratory, or related  
10 operations on the basis of approval of the export-  
11 er's systems of control, including internal proprie-  
12 tary controls, applicable to the technology and re-  
13 lated goods to be exported rather than approval of  
14 individual export transactions. The Secretary,  
15 with the assistance of all appropriate agencies  
16 shall periodically, but not less frequently than an-  
17 nually, perform audits of licensing procedures  
18 under this subparagraph in order to assure the in-  
19 tegrity and effectiveness of those procedures.

20 “(C) A project license, authorizing exports of  
21 goods or technology for a specified activity.

22 “(D) A service supply license, authorizing  
23 exports of spare or replacement parts for goods  
24 previously exported.”.

25 (b) Section 4(b) of the Act is amended—



1 (1) by striking out “Commodity” and “commodi-  
2 ty”; and

3 (2) by striking out “consisting of any goods or  
4 technology subject to export controls under this Act”  
5 and inserting in lieu thereof “stating license require-  
6 ments (other than for general licenses) for exports of  
7 goods and technology under this Act”.

8 (c) Section 4(c) of the Act is amended—

9 (1) by striking out “significant” and inserting in  
10 lieu thereof “sufficient”;

11 (2) by inserting after “those produced in the  
12 United States” the following: “so as to render the con-  
13 trols ineffective in achieving their purposes”; and

14 (3) by adding at the end thereof the following: “In  
15 complying with the provisions of this subsection, the  
16 President shall give strong emphasis to bilateral or  
17 multilateral negotiations to eliminate foreign availabil-  
18 ity. The Secretary and the Secretary of Defense shall  
19 cooperate in gathering information relating to foreign  
20 availability, including the establishment and mainte-  
21 nance of a jointly operated computer system.”.

22 (d) Section 4(f) of the Act is amended to read as follows:

23 “(f) NOTIFICATION OF THE PUBLIC; CONSULTATION  
24 WITH BUSINESS.—The Secretary shall keep the public fully  
25 apprised of changes in export control policy and procedures

1 instituted in conformity with this Act with a view to encour-  
 2 aging trade. The Secretary shall meet regularly with repre-  
 3 sentatives of a broad spectrum of enterprises, labor organiza-  
 4 tions, and citizens interested in or affected by export controls,  
 5 in order to obtain their views on United States export control  
 6 policy and the foreign availability of goods and technology.”.

7 NATIONAL SECURITY CONTROLS

8 SEC. 105. (a)(1) Section 5(a)(1) of the Act (50 U.S.C.  
 9 App. 2404(a)(1)) is amended by inserting after the first sen-  
 10 tence the following new sentence: “The authority contained  
 11 in this subsection includes the authority to prohibit or curtail  
 12 the transfer of goods or technology within the United States  
 13 to embassies and affiliates of controlled countries.”.

14 (2) Section 5(a)(2) of the Act is amended—

15 (A) by striking out “(A)”; and

16 (B) by striking out subparagraph (B).

17 (3) Section 5(a)(3) of the Act is amended by striking out  
 18 the last sentence.

19 (b)(1) Section 5(b) of the Act is amended—

20 (A) by striking out the first sentence and inserting  
 21 in lieu thereof the following: “(1) In administering  
 22 export controls for national security purposes under  
 23 this section, the President shall establish as a list of  
 24 controlled countries those countries set forth in section  
 25 620(f) of the Foreign Assistance Act of 1961, except  
 26 that the President may add any country to or remove

1       any country from such list of controlled countries if he  
2       determines that the export of goods or technology to  
3       such country would or would not (as the case may be)  
4       make a significant contribution to the military potential  
5       of such country or a combination of countries which  
6       would prove detrimental to the national security of the  
7       United States. In determining whether a country is  
8       added to or removed from the list of controlled coun-  
9       tries, the President shall take into account—

10           “(A) the extent to which the country’s policies are  
11       adverse to the national security interests of the United  
12       States;

13           “(B) the country’s Communist or non-Communist  
14       status;

15           “(C) the present and potential relationship of the  
16       country with the United States;

17           “(D) the present and potential relationships of the  
18       country with countries friendly or hostile to the United  
19       States;

20           “(E) the country’s nuclear weapons capability and  
21       the country’s compliance record with respect to multi-  
22       lateral nuclear weapons agreements to which the  
23       United States is a party; and

24           “(F) such other factors as the President considers  
25       appropriate.

1 Nothing in the preceding sentence shall be interpreted to  
2 limit the authority of the President provided in this Act to  
3 prohibit or curtail exports to countries other than controlled  
4 countries.”; and

5 (B) by adding at the end thereof the following:

6 “(2) No authority or permission to export may be re-  
7 quired under this section before goods or technology are ex-  
8 ported in the case of exports to a country which maintains  
9 export controls on such goods or technology cooperatively  
10 with the United States pursuant to the agreement of the  
11 group known as the Coordinating Committee, if the goods or  
12 technology is at such a level of performance characteristics  
13 that the export of the goods or technology to controlled coun-  
14 tries requires only notification of the participating govern-  
15 ments of the Coordinating Committee.”.

16 (2) Section 5(b)(1) of the Act, as amended by paragraph  
17 (1) of this subsection, is amended in the last sentence by  
18 striking out “specified in the preceding sentence” and insert-  
19 ing in lieu thereof “set forth in this subsection”.

20 (c)(1) Section 5(c) of the Act is amended—

21 (A) in paragraph (1) by striking out “commodity”;  
22 and

23 (B) by amending paragraph (3) to read as follows:

24 “(3) The Secretary shall review the list established pur-  
25 suant to this subsection at least once each year in order to

1 carry out the policy set forth in section 3(2)(A) of this Act  
2 and the provisions of this section, and shall promptly make  
3 such revisions of the list as may be necessary after each such  
4 review. Before beginning each annual review, the Secretary  
5 shall publish notice of that annual review in the Federal Reg-  
6 ister, provide an opportunity during such review for comment  
7 and the submission of data, with or without oral presentation,  
8 by interested Government agencies and other affected or po-  
9 tentially affected parties, and publish in the Federal Register  
10 any revisions in the list, with an explanation of the reasons  
11 for the revisions. The Secretary shall further assess, as part  
12 of such review, the availability from sources outside the  
13 United States of goods and technology comparable to those  
14 subject to export controls imposed under this section.”.

15 (2) The amendment made by paragraph (1)(B) of this  
16 subsection shall take effect on October 1, 1985.

17 (d) Section 5(e) of the Act is amended—

18 (1) in paragraph (1) by striking out “a qualified  
19 general license in lieu of a validated license” and in-  
20 serting in lieu thereof “the multiple validated export li-  
21 censes described in section 4(a)(2) of this Act in lieu of  
22 individual validated licenses”; and

23 (2) by striking out paragraphs (3) and (4) and in-  
24 serting in lieu thereof the following:

1       “(3) The Secretary, subject to the provisions of subsec-  
2   tion (1) of this section, shall not require an individual validat-  
3   ed export license for replacement parts which are exported to  
4   replace on a one-for-one basis parts that were in a good that  
5   has been lawfully exported from the United States.

6       “(4) The Secretary shall periodically review the proce-  
7   dures with respect to the multiple validated export licenses,  
8   taking appropriate action to increase their utilization by re-  
9   ducing qualification requirements or lowering minimum  
10   thresholds, to combine procedures which overlap, and to  
11   eliminate those procedures which appear to be of marginal  
12   utility.

13       “(5) The export of goods subject to export controls  
14   under this section shall be eligible, at the discretion of the  
15   Secretary, for a distribution license and other licenses author-  
16   izing multiple exports of goods, in accordance with section  
17   4(a)(2) of this Act. The export of technology and related  
18   goods subject to export controls under this section shall be  
19   eligible for a comprehensive operations license in accordance  
20   with section 4(a)(2)(B) of this Act.”.

21       (e) Section 5(g) of the Act is amended to read as follows:

22       “(g) INDEXING.—In order to ensure that requirements  
23   for validated licenses and other licenses authorizing multiple  
24   exports are periodically removed as goods or technology sub-  
25   ject to such requirements becomes obsolete with respect to

1 the national security of the United States, regulations issued  
2 by the Secretary may, where appropriate, provide for annual  
3 increases in the performance levels of goods or technology  
4 subject to any such licensing requirement. The regulations  
5 issued by the Secretary shall establish as one criterion for the  
6 removal of goods or technology from such license require-  
7 ments the anticipated needs of the military of controlled  
8 countries. Any such goods or technology which no longer  
9 meets the performance levels established by the regulations  
10 shall be removed from the list established pursuant to subsec-  
11 tion (c) of this section unless, under such exceptions and  
12 under such procedures as the Secretary shall prescribe, any  
13 other department or agency of the United States objects to  
14 such removal and the Secretary determines, on the basis of  
15 such objection, that the goods or technology shall not be re-  
16 moved from the list. The Secretary shall also consider, where  
17 appropriate, removing site visitation requirements for goods  
18 and technology which are removed from the list unless objec-  
19 tions described in this subsection are raised.”.

20 (f) Section 5(i) of the Act (50 U.S.C. App. 2404(i)) is  
21 amended—

22 (1) by striking out paragraph (3);

23 (2) in paragraph (4)—

24 (A) by striking out “(4)” and inserting in lieu  
25 thereof “(3)”; and

1 (B) by striking out “pursuant to paragraph  
2 (3)” and inserting in lieu thereof “by the members  
3 of the Committee”; and

4 (3) by adding at the end thereof the following:

5 “(4) Agreement to enhance full compliance by all  
6 parties with the export controls imposed by agreement  
7 of the Committee through the establishment of appro-  
8 priate mechanisms.

9 “(5) Agreement to improve the International Con-  
10 trol List and minimize the approval of exceptions to  
11 that list, strengthen enforcement and cooperation in en-  
12 forcement efforts, provide sufficient funding for the  
13 Committee, and improve the structure and function of  
14 the Secretariat of the Committee by upgrading profes-  
15 sional staff, translation services, data base mainte-  
16 nance, communications, and facilities.

17 “(6) Agreement to coordinate the systems of  
18 export control documents used by the participating  
19 governments in order to verify effectively the move-  
20 ment of goods or technology subject to controls by the  
21 Committee from the country of any such government  
22 to any other place.

23 “(7) Agreement to establish uniform, adequate  
24 criminal and civil penalties to deter more effectively di-



1 versions of items controlled for export by agreement of  
2 the Committee.

3 “(8) Agreement to increase on-site inspections by  
4 national enforcement authorities of the participating  
5 governments to ensure that end users who have im-  
6 ported items controlled for export by agreement of the  
7 Committee are using such items for the stated end  
8 uses, and that such items are, in fact, under the control  
9 of those end users.

10 “(9) Agreement to strengthen the Committee so  
11 that it functions effectively in controlling export trade  
12 in a manner that better protects the national security  
13 of each participant to the mutual benefit of all partici-  
14 pants.”.

15 (g) Section 5(j) of the Act is amended to read as follows:

16 “(j) COMMERCIAL AGREEMENTS WITH CERTAIN  
17 COUNTRIES.—(1) Any United States firm, enterprise, or  
18 other nongovernmental entity which enters into an agree-  
19 ment with any agency of the government of a controlled  
20 country, that calls for the encouragement of technical coop-  
21 eration and that is intended to result in the export from the  
22 United States to the other party of unpublished technical data  
23 of United States origin, shall report to the Secretary the  
24 agreement with such agency with sufficient detail.

1       “(2) The provisions of paragraph (1) shall not apply to  
2 colleges, universities, or other educational institutions.”.

3       (h) Section 5(k) of the Act is amended—

4           (1) by inserting after “conducting negotiations  
5 with other countries” the following: “, including those  
6 countries not participating in the group known as the  
7 Coordinating Committee,”; and

8           (2) by adding at the end thereof the following: “In  
9 cases where such negotiations produce agreements on  
10 export restrictions comparable in practice to those  
11 maintained by the Coordinating Committee, the Secre-  
12 tary shall treat exports, whether by individual or multi-  
13 ple licenses, to countries party to such agreements in  
14 the same manner as exports to members of the Coordi-  
15 nating Committee are treated, including the same  
16 manner as exports are treated under subsection (b)(2)  
17 of this section and section 10(o) of this Act.”.

18       (i) Section 5(l) of the Act is amended to read as follows:

19       “(l) DIVERSION OF CONTROLLED GOODS OR TECH-  
20 NOLOGY.—(1) Whenever there is reliable evidence, as deter-  
21 mined by the Secretary, that goods or technology which were  
22 exported subject to national security controls under this sec-  
23 tion have been diverted to an unauthorized use or consignee  
24 in violation of the conditions of an export license, the Secre-  
25 tary for as long as that diversion continues—

1           “(A) shall deny all further exports, to or by the  
2       party or parties responsible for that diversion or who  
3       conspired in that diversion, of any goods or technology  
4       subject to national security controls under this section,  
5       regardless of whether such goods or technology are  
6       available from sources outside the United States; and

7           “(B) may take such additional actions under this  
8       Act with respect to the party or parties referred to in  
9       subparagraph (A) as the Secretary determines are ap-  
10      propriate in the circumstances to deter the further un-  
11      authorized use of the previously exported goods or  
12      technology.

13          “(2) As used in this subsection, the term ‘unauthorized  
14      use’ means the use of United States goods or technology in  
15      the design, production, or maintenance of any item on the  
16      United States Munitions List, or the military use of any item  
17      on the International Control List of the Coordinating Com-  
18      mittee.”.

19          (j) Section 5 of the Act is amended by adding at the end  
20      thereof the following new subsections:

21          “(m) **GOODS CONTAINING MICROPROCESSORS.—**  
22      Export controls may not be imposed under this section on a  
23      good solely on the basis that the good contains an embedded  
24      microprocessor, if such microprocessor cannot be used or al-  
25      tered to perform functions other than those it performs in the

1 good in which it is embedded. An export control may be im-  
2 posed under this section on a good containing an embedded  
3 microprocessor referred to in the preceding sentence only on  
4 the basis that the functions of the good itself are such that  
5 the good, if exported, would make a significant contribution  
6 to the military potential of any other country or combination  
7 of countries which would prove detrimental to the national  
8 security of the United States.

9       “(n) SECURITY MEASURES.—The Secretary, in consul-  
10 tation with the Commissioner of Customs and the Director of  
11 the Federal Bureau of Investigation, shall provide advice and  
12 technical assistance to persons engaged in the manufacture or  
13 handling of goods or technology subject to export controls  
14 under this section to develop security systems to prevent vio-  
15 lations or evasions of those export controls.

16       “(o) RECORDKEEPING.—The Secretary, the Secretary  
17 of Defense, and any other department or agency consulted in  
18 connection with a license application under this Act or a revi-  
19 sion of a list of goods or technology subject to export controls  
20 under this Act, shall make and keep records of their respec-  
21 tive advice, recommendations, or decisions in connection with  
22 any such license application or revision, including the factual  
23 and analytical basis of the advice, recommendations, or deci-  
24 sions.

1       “(p) NATIONAL SECURITY CONTROL OFFICE.—To  
 2 assist in carrying out the policy and other authorities and  
 3 responsibilities of the Secretary of Defense under this section,  
 4 there is established in the Department of Defense a National  
 5 Security Control Office under the direction of the Under Sec-  
 6 retary of Defense for Policy. The Secretary of Defense may  
 7 delegate to that office such of those authorities and responsi-  
 8 bilities, together with such ancillary functions, as the Secre-  
 9 tary of Defense considers appropriate.

10       “(q) EXCLUSION FOR AGRICULTURAL COMMOD-  
 11 ITIES.—This section does not authorize export controls on  
 12 agricultural commodities, including fats, oils, and animal  
 13 hides and skins.”.

14                   MILITARILY CRITICAL TECHNOLOGIES

15       SEC. 106. (a) Section 5(d) of the Act (50 U.S.C. App.  
 16 2404(d)) is amended—

17               (1) in paragraph (2)—

18                   (A) in subparagraph (B) by striking out  
 19               “and” after “test equipment,”;

20                   (B) by adding “and” at the end of subpara-  
 21               graph (C);

22                   (C) by inserting after subparagraph (C) the  
 23               following:

24               “(D) keystone equipment which would reveal or  
 25               give insight into the design and manufacture of a  
 26               United States military system,”; and

1           (D) by striking out “countries to which ex-  
2           ports are controlled under this section” and in-  
3           serting in lieu thereof the following: “, or avail-  
4           able in fact from sources outside the United  
5           States to, controlled countries”; and

6           (2) by striking out paragraphs (4) through (6) and  
7           inserting in lieu thereof the following:

8           “(4) The Secretary and the Secretary of Defense shall  
9           integrate items on the list of militarily critical technologies  
10          into the control list in accordance with the requirements of  
11          subsection (c) of this section. The integration of items on the  
12          list of militarily critical technologies into the control list shall  
13          proceed with all deliberate speed. Any disagreement between  
14          the Secretary and the Secretary of Defense regarding the  
15          integration of an item on the list of militarily critical technol-  
16          ogies into the control list shall be resolved by the President.  
17          Except in the case of a good or technology for which a vali-  
18          dated license may be required on account of a determination  
19          of the President under subsection (f)(1) of this section, a good  
20          or technology shall be included on the control list only if the  
21          Secretary finds that controlled countries do not possess that  
22          good or technology, or a functionally equivalent good or tech-  
23          nology, and the good or technology or functionally equivalent  
24          good or technology is not available in fact to a controlled  
25          country from sources outside the United States in sufficient

1 quantity and of comparable quality so that the requirement of  
2 a validated license for the export of such good or technology  
3 is or would be ineffective in achieving the purpose set forth in  
4 subsection (a) of this section. The Secretary and the Secre-  
5 tary of Defense shall jointly submit a report to the Congress,  
6 not later than one year after the date of the enactment of the  
7 Export Administration Amendments Act of 1985, on actions  
8 taken to carry out this paragraph. For the purposes of this  
9 paragraph, assessment of whether a good or technology is  
10 functionally equivalent shall include consideration of the fac-  
11 tors described in subsection (f)(3) of this section.

12       “(5) The Secretary of Defense shall establish a proce-  
13 dure for reviewing the goods and technology on the list of  
14 militarily critical technologies at least annually for the pur-  
15 pose of removing from the list of militarily critical technol-  
16 ogies any goods or technology that are no longer militarily  
17 critical. The Secretary of Defense may add to the list of mili-  
18 tarily critical technologies any good or technology that the  
19 Secretary of Defense determines is militarily critical, consist-  
20 ent with the provisions of paragraph (2) of this subsection. If  
21 the Secretary and the Secretary of Defense disagree as to  
22 whether any change in the list of militarily critical technol-  
23 ogies by the addition or removal of a good or technology  
24 should also be made in the control list, consistent with the

1 provisions of the fourth sentence of paragraph (4) of this sub-  
2 section, the President shall resolve the disagreement.

3 “(6) The establishment of adequate export controls for  
4 militarily critical technology and keystone equipment shall be  
5 accompanied by suitable reductions in the controls on the  
6 products of that technology and equipment.

7 “(7) The Secretary of Defense shall, not later than one  
8 year after the date of the enactment of the Export Adminis-  
9 tration Amendments Act of 1985, report to the Congress on  
10 efforts by the Department of Defense to assess the impact  
11 that the transfer of goods or technology on the list of militari-  
12 ly critical technologies to controlled countries has had or will  
13 have on the military capabilities of those countries.”.

14 FOREIGN AVAILABILITY

15 SEC. 107. (a) Section 5(f)(1) of the Act (50 U.S.C. App.  
16 2404(f)(1)) is amended by inserting after “The Secretary, in  
17 consultation with” the following: “the Secretary of Defense  
18 and other”.

19 (b) Section 5(f)(3) of the Act is amended to read as fol-  
20 lows:

21 “(3) The Secretary shall make a foreign availability de-  
22 termination under paragraph (1) or (2) on the Secretary’s  
23 own initiative or upon receipt of an allegation from an export  
24 license applicant that such availability exists. In making any  
25 such determination, the Secretary shall accept the represen-  
26 tations of applicants made in writing and supported by rea-



1 sonable evidence, unless such representations are contradict-  
2 ed by reliable evidence, including scientific or physical exami-  
3 nation, expert opinion based upon adequate factual informa-  
4 tion, or intelligence information. In making determinations of  
5 foreign availability, the Secretary may consider such factors  
6 as cost, reliability, the availability and reliability of spare  
7 parts and the cost and quality thereof, maintenance pro-  
8 grams, durability, quality of end products produced by the  
9 item proposed for export, and scale of production. For pur-  
10 poses of this paragraph, 'evidence' may include such items as  
11 foreign manufacturers' catalogues, brochures, or operation or  
12 maintenance manuals, articles from reputable trade publica-  
13 tions, photographs, and depositions based upon eyewitness  
14 accounts.'".

15 (c) Section 5(f)(4) of the Act is amended by striking out  
16 the first sentence and inserting in lieu thereof the following:  
17 "In any case in which export controls are maintained under  
18 this section notwithstanding foreign availability, on account  
19 of a determination by the President that the absence of the  
20 controls would prove detrimental to the national security of  
21 the United States, the President shall actively pursue negoti-  
22 ations with the governments of the appropriate foreign coun-  
23 tries for the purpose of eliminating such availability. If,  
24 within 6 months after the President's determination, the for-  
25 eign availability has not been eliminated, the Secretary may

1 not, after the end of that 6-month period, require a validated  
2 license for the export of the goods or technology involved.  
3 The President may extend the 6-month period described in  
4 the preceding sentence for an additional period of 12 months  
5 if the President certifies to the Congress that the negotiations  
6 involved are progressing and that the absence of the export  
7 control involved would prove detrimental to the national se-  
8 curity of the United States.”.

9 (d)(1) Section 5(f)(5) of the Act is amended to read as  
10 follows:

11 “(5) The Secretary shall establish in the Department of  
12 Commerce an Office of Foreign Availability which, in the  
13 fiscal year 1985, shall be under the direction of the Assistant  
14 Secretary of Commerce for Trade Administration, and, in the  
15 fiscal year 1986 and thereafter, shall be under the direction  
16 of the Under Secretary of Commerce for Export Administra-  
17 tion. The Office shall be responsible for gathering and analyz-  
18 ing all the necessary information in order for the Secretary to  
19 make determinations of foreign availability under this Act.  
20 The Secretary shall make available to the Committee on For-  
21 eign Affairs of the House of Representatives and the Com-  
22 mittee on Banking, Housing, and Urban Affairs of the Senate  
23 at the end of each 6-month period during a fiscal year infor-  
24 mation on the operations of the Office, and on improvements  
25 in the Government’s ability to assess foreign availability,

1 during that 6-month period, including information on the  
2 training of personnel, the use of computers, and the use of  
3 Foreign Commercial Service officers. Such information shall  
4 also include a description of representative determinations  
5 made under this Act during that 6-month period that foreign  
6 availability did or did not exist (as the case may be), together  
7 with an explanation of such determinations.”.

8 (2) Section 5(f)(6) of the Act is amended by striking out  
9 “Office of Export Administration” and inserting in lieu there-  
10 of “Office of Foreign Availability”.

11 (e) Section 5(f) of the Act is amended by adding at the  
12 end thereof the following new paragraph:

13 “(7) The Secretary shall issue regulations with respect  
14 to determinations of foreign availability under this Act not  
15 later than 6 months after the date of the enactment of the  
16 Export Administration Amendments Act of 1985.”.

17 (f) Section 5(h)(1) of the Act is amended by inserting “,  
18 the intelligence community,” after “Departments of Com-  
19 merce, Defense, and State”.

20 (g) Section 5(h)(2) of the Act is amended in the second  
21 sentence—

22 (1) by striking out “and” at the end of clause (C);

23 and

24 (2) by inserting before the period at the end of the  
25 second sentence the following: “, and (E) any other

1        questions relating to actions designed to carry out the  
2        policy set forth in section 3(2)(A) of this Act.”.

3        (h) Section 5(h)(6) of the Act is amended by striking out  
4        “and provides adequate documentation” and all that follows  
5        through the end of the paragraph and inserting in lieu thereof  
6        the following: “the technical advisory committee shall submit  
7        that certification to the Congress at the same time the certifi-  
8        cation is made to the Secretary, together with the documen-  
9        tation for the certification. The Secretary shall investigate  
10       the foreign availability so certified and, not later than 90  
11       days after the certification is made, shall submit a report to  
12       the technical advisory committee and the Congress stating  
13       that (A) the Secretary has removed the requirement of a vali-  
14       dated license for the export of the goods or technology, on  
15       account of the foreign availability, (B) the Secretary has rec-  
16       ommended to the President that negotiations be conducted to  
17       eliminate the foreign availability, or (C) the Secretary has  
18       determined on the basis of the investigation that the foreign  
19       availability does not exist. To the extent necessary, the  
20       report may be submitted on a classified basis. In any case in  
21       which the Secretary has recommended to the President that  
22       negotiations be conducted to eliminate the foreign availabil-  
23       ity, the President shall actively pursue such negotiations with  
24       the governments of the appropriate foreign countries. If,  
25       within 6 months after the Secretary submits such report to

1 the Congress, the foreign availability has not been eliminat-  
 2 ed, the Secretary may not, after the end of that 6-month  
 3 period, require a validated license for the export of the goods  
 4 or technology involved. The President may extend the 6-  
 5 month period described in the preceding sentence for an addi-  
 6 tional period of 12 months if the President certifies to the  
 7 Congress that the negotiations involved are progressing and  
 8 that the absence of the export control involved would prove  
 9 detrimental to the national security of the United States.”.

10 (i) Subsections (f)(1), (f)(2), and (h)(6) of section 5 of the  
 11 Act are each amended by striking out “sufficient quality” and  
 12 inserting in lieu thereof “comparable quality”.

13 (j) Subsections (f)(1), (f)(4), and (h)(6) of section 5 of the  
 14 Act are each amended by striking out “countries to which  
 15 exports are controlled under this section” and inserting in  
 16 lieu thereof “controlled countries”.

#### 17 FOREIGN POLICY CONTROLS

18 SEC. 108. (a) Section 6(a) of the Act is amended—

19 (1) in paragraph (1)—

20 (A) by striking out “or (8)” and inserting in  
 21 lieu thereof “(8), or (13)”; and

22 (B) by inserting in the second sentence after  
 23 “Secretary of State” the following: “, the Secre-  
 24 tary of Defense, the Secretary of Agriculture, the  
 25 Secretary of the Treasury, the United States  
 26 Trade Representative,”;

1           (2) by redesignating paragraphs (2) through (4) as  
2           paragraphs (3) through (5), respectively;

3           (3) by inserting after paragraph (1) the following  
4           new paragraph:

5           “(2) Any export control imposed under this section shall  
6           apply to any transaction or activity undertaken with the  
7           intent to evade that export control, even if that export con-  
8           trol would not otherwise apply to that transaction or activi-  
9           ty.”; and

10           (4) in paragraph (3), as redesignated by paragraph  
11           (2) of this subsection, by striking out “(e)” and insert-  
12           ing in lieu thereof “(f)”.

13           (b) Section 6(b) of the Act is amended to read as follows:

14           “(b) CRITERIA.—(1) Subject to paragraph (2) of this  
15           subsection, the President may impose, extend, or expand  
16           export controls under this section only if the President deter-  
17           mines that—

18           “(A) such controls are likely to achieve the in-  
19           tended foreign policy purpose, in light of other factors,  
20           including the availability from other countries of the  
21           goods or technology proposed for such controls, and  
22           that foreign policy purpose cannot be achieved through  
23           negotiations or other alternative means;

24           “(B) the proposed controls are compatible with  
25           the foreign policy objectives of the United States and

1 with overall United States policy toward the country to  
2 which exports are to be subject to the proposed con-  
3 trols;

4 “(C) the reaction of other countries to the imposi-  
5 tion, extension, or expansion of such export controls by  
6 the United States is not likely to render the controls  
7 ineffective in achieving the intended foreign policy pur-  
8 pose or to be counterproductive to United States for-  
9 eign policy interests;

10 “(D) the effect of the proposed controls on the  
11 export performance of the United States, the competi-  
12 tive position of the United States in the international  
13 economy, the international reputation of the United  
14 States as a supplier of goods and technology, or on the  
15 economic well-being of individual United States compa-  
16 nies and their employees and communities does not  
17 exceed the benefit to United States foreign policy ob-  
18 jectives; and

19 “(E) the United States has the ability to enforce  
20 the proposed controls effectively.

21 “(2) With respect to those export controls in effect  
22 under this section on the date of the enactment of the Export  
23 Administration Amendments Act of 1985, the President, in  
24 determining whether to extend those controls, as required by  
25 subsection (a)(3) of this section, shall consider the criteria set

1 forth in paragraph (1) of this subsection and shall consider the  
2 foreign policy consequences of modifying the export con-  
3 trols.”.

4 (c) Section 6(c) of the Act is amended to read as follows:

5 “(c) CONSULTATION WITH INDUSTRY.—The Secretary  
6 in every possible instance shall consult with and seek advice  
7 from affected United States industries and appropriate advi-  
8 sory committees established under section 135 of the Trade  
9 Act of 1974 before imposing any export control under this  
10 section. Such consultation and advice shall be with respect to  
11 the criteria set forth in subsection (b)(1) and such other mat-  
12 ters as the Secretary considers appropriate.”.

13 (d) Section 6 of the Act is further amended—

14 (1) by redesignating subsections (d) through (k) as  
15 subsections (e) through (l), respectively; and

16 (2) by inserting after subsection (c) the following  
17 new subsection:

18 “(d) CONSULTATION WITH OTHER COUNTRIES.—  
19 When imposing export controls under this section, the Presi-  
20 dent shall, at the earliest appropriate opportunity, consult  
21 with the countries with which the United States maintains  
22 export controls cooperatively, and with such other countries  
23 as the President considers appropriate, with respect to the  
24 criteria set forth in subsection (b)(1) and such other matters  
25 as the President considers appropriate.”.



1 (e) Section 6(f) of the Act, as redesignated by subsection  
2 (d) of this section, is amended to read as follows:

3 “(f) CONSULTATION WITH THE CONGRESS.—(1) The  
4 President may impose or expand export controls under this  
5 section, or extend such controls as required by subsection  
6 (a)(3) of this section, only after consultation with the Con-  
7 gress, including the Committee on Foreign Affairs of the  
8 House of Representatives and the Committee on Banking,  
9 Housing, and Urban Affairs of the Senate.

10 “(2) The President may not impose, expand, or extend  
11 export controls under this section until the President has sub-  
12 mitted to the Congress a report—

13 “(A) specifying the purpose of the controls;

14 “(B) specifying the determinations of the Presi-  
15 dent (or, in the case of those export controls described  
16 in subsection (b)(2), the considerations of the President)  
17 with respect to each of the criteria set forth in subsec-  
18 tion (b)(1), the bases for such determinations (or consid-  
19 erations), and any possible adverse foreign policy con-  
20 sequences of the controls;

21 “(C) describing the nature, the subjects, and the  
22 results of, or the plans for, the consultation with indus-  
23 try pursuant to subsection (c) and with other countries  
24 pursuant to subsection (d);

1           “(D) specifying the nature and results of any al-  
2           ternative means attempted under subsection (e), or the  
3           reasons for imposing, expanding, or extending the con-  
4           trols without attempting any such alternative means;  
5           and

6           “(E) describing the availability from other coun-  
7           tries of goods or technology comparable to the goods  
8           or technology subject to the proposed export controls,  
9           and describing the nature and results of the efforts  
10          made pursuant to subsection (h) to secure the coopera-  
11          tion of foreign governments in controlling the foreign  
12          availability of such comparable goods or technology.

13 Such report shall also indicate how such controls will further  
14 significantly the foreign policy of the United States or will  
15 further its declared international obligations.

16          “(3) To the extent necessary to further the effectiveness  
17 of the export controls, portions of a report required by para-  
18 graph (2) may be submitted to the Congress on a classified  
19 basis, and shall be subject to the provisions of section 12(c) of  
20 this Act. Each such report shall, at the same time it is sub-  
21 mitted to the Congress, also be submitted to the General Ac-  
22 counting Office for the purpose of assessing the report’s full  
23 compliance with the intent of this subsection.

24          “(4) In the case of export controls under this section  
25 which prohibit or curtail the export of any agricultural com-

1 modify, a report submitted pursuant to paragraph (2) shall be  
2 deemed to be the report required by section 7(g)(3) of this  
3 Act.

4 “(5) In addition to any written report required under  
5 this section, the Secretary, not less frequently than annually,  
6 shall present in oral testimony before the Committee on  
7 Banking, Housing, and Urban Affairs of the Senate and the  
8 Committee on Foreign Affairs of the House of Representa-  
9 tives a report on policies and actions taken by the Govern-  
10 ment to carry out the provisions of this section.”.

11 (f) Section 6(g) of the Act, as redesignated by subsection  
12 (d) of this section, is amended—

13 (1) by inserting after the first sentence the follow-  
14 ing: “This section also does not authorize export con-  
15 trols on donations of goods (including, but not limited  
16 to, food, educational materials, seeds and hand tools,  
17 medicines and medical supplies, water resources equip-  
18 ment, clothing and shelter materials, and basic house-  
19 hold supplies) that are intended to meet basic human  
20 needs.”; and

21 (2) by striking out the last sentence and inserting  
22 in lieu thereof the following: “This subsection shall not  
23 apply to any export control on medicine, medical sup-  
24 plies, or food, except for donations, which is in effect  
25 on the date of the enactment of the Export Adminis-

1       tration Amendments Act of 1985. Notwithstanding the  
2       preceding provisions of this subsection, the President  
3       may impose export controls under this section on medi-  
4       cine, medical supplies, food, and donations of goods in  
5       order to carry out the policy set forth in paragraph  
6       (13) of section 3 of this Act.”.

7       (g)(1) Section 6(h) of the Act, as redesignated by subsec-  
8       tion (d) of this section, is amended—

9               (A) by inserting “(1)” immediately before the first  
10       sentence; and

11              (B) by adding at the end thereof the following:

12       “(2) Before extending any export control pursuant to  
13       subsection (a)(3) of this section, the President shall evaluate  
14       the results of his actions under paragraph (1) of this subsec-  
15       tion and shall include the results of that evaluation in his  
16       report to the Congress pursuant to subsection (f) of this sec-  
17       tion.

18       “(3) If, within 6 months after the date on which export  
19       controls under this section are imposed or expanded, or  
20       within 6 months after the date of the enactment of the  
21       Export Administration Amendments Act of 1985 in the case  
22       of export controls in effect on such date of enactment, the  
23       President’s efforts under paragraph (1) are not successful in  
24       securing the cooperation of foreign governments described in  
25       paragraph (1) with respect to those export controls, the Sec-

1   retary shall thereafter take into account the foreign availabil-  
2   ity of the goods or technology subject to the export controls.  
3   If the Secretary affirmatively determines that a good or tech-  
4   nology subject to the export controls is available in sufficient  
5   quantity and comparable quality from sources outside the  
6   United States to countries subject to the export controls so  
7   that denial of an export license would be ineffective in  
8   achieving the purposes of the controls, then the Secretary  
9   shall, during the period of such foreign availability, approve  
10  any license application which is required for the export of the  
11  good or technology and which meets all requirements for  
12  such a license. The Secretary shall remove the good or tech-  
13  nology from the list established pursuant to subsection (l) of  
14  this section if the Secretary determines that such action is  
15  appropriate.

16       “(4) In making a determination of foreign availability  
17  under paragraph (3) of this subsection, the Secretary shall  
18  follow the procedures set forth in section 5(f)(3) of this Act.”.

19       (2) The amendments made by paragraph (1) of this sub-  
20  section shall not apply to export controls imposed under sub-  
21  section (i), (j), or (k) of section 6 of the Act (as redesignated  
22  by subsection (d) of this section) before the date of the enact-  
- 23  ment of this Act.

1 (h) Section 6(i) of the Act, as redesignated by subsection  
2 (d) of this section, is amended by striking out “(f), and (g)”  
3 and inserting in lieu thereof “(e), (g), and (h)”.

4 (i)(1) Section 6(j) of the Act, as redesignated by subsec-  
5 tion (d) of this section, is amended to read as follows:

6 “(j) COUNTRIES SUPPORTING INTERNATIONAL TER-  
7 RORISM.—(1) The Secretary and the Secretary of State shall  
8 notify the Committee on Foreign Affairs of the House of  
9 Representatives and the Committee on Banking, Housing,  
10 and Urban Affairs and the Committee on Foreign Relations  
11 of the Senate at least 30 days before any license is approved  
12 for the export of goods or technology valued at more than  
13 \$7,000,000 to any country concerning which the Secretary  
14 of State has made the following determinations:

15 “(A) Such country has repeatedly provided sup-  
16 port for acts of international terrorism.

17 “(B) Such exports would make a significant con-  
18 tribution to the military potential of such country, in-  
19 cluding its military logistics capability, or would en-  
20 hance the ability of such country to support acts of  
21 international terrorism.

22 “(2) Any determination which has been made with re-  
23 spect to a country under paragraph (1) of this subsection may  
24 not be rescinded unless the President, at least 30 days before  
25 the proposed rescission would take effect, submits to the

1 Congress a report justifying the rescission and certifying  
2 that—

3 “(A) the country concerned has not provided sup-  
4 port for international terrorism, including support or  
5 sanctuary for any major terrorist or terrorist group in  
6 its territory, during the preceding 6-month period; and

7 “(B) the country concerned has made explicit as-  
8 surances that it will not support acts of international  
9 terrorism in the future.”.

10 (2) Any determination with respect to any country  
11 which was made before January 1, 1982, under section 6(i)  
12 of the Act, as in effect before the date of the enactment of  
13 this Act, and which was no longer in effect on the date of the  
14 enactment of this Act, shall be reinstated upon the expiration  
15 of ninety days after such date of enactment unless, within  
16 that ninety-day period, the President submits a report under  
17 section 6(j)(2) of the Act, as amended by subsection (d) of this  
18 section and paragraph (1) of this subsection, containing the  
19 certification described in such section 6(j)(2) with respect to  
20 that country.

21 (j)(1) Section 6(k)(1) of the Act, as redesignated by sub-  
22 section (d) of this section, is amended by adding at the end  
23 thereof the following new sentence: “Notwithstanding any  
24 other provision of this Act—

1           “(A) any determination of the Secretary of what  
2       goods or technology shall be included on the list estab-  
3       lished pursuant to subsection (l) of this section as a  
4       result of the export restrictions imposed by this subsec-  
5       tion shall be made with the concurrence of the Secre-  
6       tary of State, and

7           “(B) any determination of the Secretary to ap-  
8       prove or deny an export license application to export  
9       crime control or detection instruments or equipment  
10      shall be made in concurrence with the recommenda-  
11      tions of the Secretary of State submitted to the Secre-  
12      tary with respect to the application pursuant to section  
13      10(e) of this Act,

14     except that, if the Secretary does not agree with the Secre-  
15     tary of State with respect to any determination under sub-  
16     paragraph (A) or (B), the matter shall be referred to the  
17     President for resolution.”.

18       (2) The amendment made by paragraph (1) of this sub-  
19     section shall apply to determinations of the Secretary of  
20     Commerce which are made on or after the date of the enact-  
21     ment of this Act.

22       (k) Section 6(l) of the Act, as redesignated by subsection  
23     (d) of this section, is amended—

24           (1) in the first sentence by striking out “commodi-  
25       ty”; and



1           (2) by amending the second sentence to read as  
2 follows: “The Secretary shall clearly identify on the  
3 control list which goods or technology, and which  
4 countries or destinations, are subject to which types of  
5 controls under this section.”.

6       (1)(1) Section 6 of the Act is amended by adding at the  
7 end thereof the following:

8       “(m) EFFECT ON EXISTING CONTRACTS AND LI-  
9 CENSES.—The President may not, under this section, prohib-  
10 it or curtail the export or reexport of goods, technology, or  
11 other information—

12           “(1) in performance of a contract or agreement  
13 entered into before the date on which the President re-  
14 ports to the Congress, pursuant to subsection (f) of this  
15 section, his intention to impose controls on the export  
16 or reexport of such goods, technology, or other infor-  
17 mation, or

18           “(2) under a validated license or other authoriza-  
19 tion issued under this Act,  
20 unless and until the President determines and certifies to the  
21 Congress that—

22           “(A) a breach of the peace poses a serious and  
23 direct threat to the strategic interest of the United  
24 States,

1           “(B) the prohibition or curtailment of such con-  
2       tracts, agreements, licenses, or authorizations will be  
3       instrumental in remedying the situation posing the  
4       direct threat, and

5           “(C) the export controls will continue only so long  
6       as the direct threat persists.

7       “(h) EXTENSION OF CERTAIN CONTROLS.—Those  
8       export controls imposed under this section with respect to  
9       South Africa which were in effect on February 28, 1982, and  
10      ceased to be effective on March 1, 1982, September 15,  
11      1982, or January 20, 1983, shall become effective on the  
12      date of the enactment of this subsection, and shall remain in  
13      effect until one year after such date of enactment. At the end  
14      of that one-year period, any of those controls made effective  
15      by this subsection may be extended by the President in ac-  
16      cordance with subsections (b) and (f) of this section.

17      “(o) EXPANDED AUTHORITY TO IMPOSE CON-  
18      TROLS.—(1) In any case in which the President determines  
19      that it is necessary to impose controls under this section  
20      without any limitation contained in subsection (c), (d), (e), (g),  
21      (h), or (m) of this section, the President may impose those  
22      controls only if the President submits that determination to  
23      the Congress, together with a report pursuant to subsection  
24      (f) of this section with respect to the proposed controls, and  
25      only if a law is enacted authorizing the imposition of those

1 controls. If a joint resolution authorizing the imposition of  
2 these controls is introduced in either House of Congress  
3 within 30 days after the Congress receives the determination  
4 and report of the President, that joint resolution shall be re-  
5 ferred to the Committee on Banking, Housing, and Urban  
6 Affairs of the Senate and the Committee on Foreign Affairs  
7 of the House of Representatives. If either such committee  
8 has not reported the joint resolution at the end of 30 days  
9 after its referral, the committee shall be discharged from fur-  
10 ther consideration of the joint resolution.

11       “(2) For purposes of this subsection, the term ‘joint res-  
12 olution’ means a joint resolution the matter after the resolv-  
13 ing clause of which is as follows: ‘That the Congress, having  
14 received on                      a determination of the President  
15 under section 6(o)(1) of the Export Administration Act of  
16 1979 with respect to the export controls which are set forth  
17 in the report submitted to the Congress with that determina-  
18 tion, authorizes the President to impose those export con-  
19 trols.’, with the date of the receipt of the determination and  
20 report inserted in the blank.

21       “(3) In the computation of the periods of 30 days re-  
22 ferred to in paragraph (1), there shall be excluded the days on  
23 which either House of Congress is not in session because of  
24 an adjournment of more than 3 days to a day certain or be-  
25 cause of an adjournment of the Congress sine die.”.

1       (2) Subsections (m) and (o) of section 6 of the Act, as  
2 added by paragraph (1) of this subsection, shall not apply to  
3 export controls imposed before the date of the enactment of  
4 this Act.

5           PETITIONS FOR MONITORING OR CONTROLS

6       SEC. 109. (a) Section 7(c) of the Act (50 U.S.C. App.  
7 2406(c)) is amended to read as follows:

8       “(c) PETITIONS FOR MONITORING OR CONTROLS.—

9       (1)(A) Any entity, including a trade association, firm, or certi-  
10 fied or recognized union or group of workers, that is repre-  
11 sentative of an industry or a substantial segment of an indus-  
12 try that processes metallic materials capable of being recy-  
13 cled may transmit a written petition to the Secretary request-  
14 ing the monitoring of exports or the imposition of export con-  
15 trols, or both, with respect to such material, in order to carry  
16 out the policy set forth in section 3(2)(C) of this Act.

17       “(B) Each petition shall be in such form as the Secre-  
18 tary shall prescribe and shall contain information in support  
19 of the action requested. The petition shall include any infor-  
20 mation reasonably available to the petitioner indicating that  
21 each of the criteria set forth in paragraph (3)(A) of this sub-  
22 section is satisfied.

23       “(2) Within 15 days after receipt of any petition de-  
24 scribed in paragraph (1), the Secretary shall publish a notice  
25 in the Federal Register. The notice shall—

1           “(A) include the name of the material that is the  
2           subject of the petition,

3           “(B) include the Schedule B number of the mate-  
4           rial as set forth in the Statistical Classification of Do-  
5           mestic and Foreign Commodities Exported from the  
6           United States,

7           “(C) indicate whether the petitioner is requesting  
8           that controls or monitoring, or both, be imposed with  
9           respect to the exportation of such material, and

10          “(D) provide that interested persons shall have a  
11          period of 30 days beginning on the date of publication  
12          of such notice to submit to the Secretary written data,  
13          views or arguments, with or without opportunity for  
14          oral presentation, with respect to the matter involved.

15          At the request of the petitioner or any other entity described  
16          in paragraph (1)(A) with respect to the material that is the  
17          subject of the petition, or at the request of any entity repre-  
18          sentative of producers or exporters of such material, the Sec-  
19          retary shall conduct public hearings with respect to the sub-  
20          ject of the petition, in which case the 30-day period may be  
21          extended to 45 days.

22          “(3)(A) Within 45 days after the end of the 30- or 45-  
23          day period described in paragraph (2), as the case may be,  
24          the Secretary shall determine whether to impose monitoring  
25          or controls, or both, on the export of such material, in order

1 to carry out the policy set forth in section 3(2)(C) of this Act.  
2 In making such determination, the Secretary shall determine  
3 whether—

4 “(i) there has been a significant increase, in rela-  
5 tion to a specific period of time, in exports of such ma-  
6 terial in relation to domestic supply and demand;

7 “(ii) there has been a significant increase in the  
8 domestic price of such material or a domestic shortage  
9 of such material relative to demand;

10 “(iii) exports of such material are as important as  
11 any other cause of a domestic price increase or short-  
12 age relative to demand found under clause (ii);

13 “(iv) a domestic price increase or shortage rela-  
14 tive to demand found under clause (ii) has significantly  
15 adversely affected or may significantly adversely affect  
16 the national economy or any sector thereof, including a  
17 domestic industry; and

18 “(v) monitoring or controls, or both, are necessary  
19 in order to carry out the policy set forth in section  
20 3(2)(C) of this Act.

21 “(B) The Secretary shall publish in the Federal Register  
22 a detailed statement of the reasons for the Secretary’s deter-  
23 mination pursuant to subparagraph (A) of whether to impose  
24 monitoring or controls, or both, including the findings of fact  
25 in support of that determination.

1       “(4) Within 15 days after making a determination under  
2 paragraph (3) to impose monitoring or controls on the export  
3 of a material, the Secretary shall publish in the Federal Reg-  
4 ister proposed regulations with respect to such monitoring or  
5 controls. Within 30 days after the publication of such pro-  
6 posed regulations, and after considering any public comments  
7 on the proposed regulations, the Secretary shall publish and  
8 implement final regulations with respect to such monitoring  
9 or controls.

10       “(5) For purposes of publishing notices in the Federal  
11 Register and scheduling public hearings pursuant to this sub-  
12 section, the Secretary may consolidate petitions, and re-  
13 sponds to such petitions, which involve the same or related  
14 materials.

15       “(6) If a petition with respect to a particular material or  
16 group of materials has been considered in accordance with all  
17 the procedures prescribed in this subsection, the Secretary  
18 may determine, in the absence of significantly changed cir-  
19 cumstances, that any other petition with respect to the same  
20 material or group of materials which is filed within 6 months  
21 after the consideration of the prior petition has been complet-  
22 ed does not merit complete consideration under this subsec-  
23 tion.

24       “(7) The procedures and time limits set forth in this  
25 subsection with respect to a petition filed under this subsec-

1 tion shall take precedence over any review undertaken at the  
2 initiative of the Secretary with respect to the same subject as  
3 that of the petition.

4 “(8) The Secretary may impose monitoring or controls,  
5 on a temporary basis, on the export of a metallic material  
6 after a petition is filed under paragraph (1)(A) with respect to  
7 that material but before the Secretary makes a determination  
8 under paragraph (3) with respect to that material only if—

9 “(A) the failure to take such temporary action  
10 would result in irreparable harm to the entity filing the  
11 petition, or to the national economy or segment there-  
12 of, including a domestic industry, and

13 “(B) the Secretary considers such action to be  
14 necessary to carry out the policy set forth in section  
15 3(2)(C) of this Act.

16 “(9) The authority under this subsection shall not be  
17 construed to affect the authority of the Secretary under any  
18 other provision of this Act, except that if the Secretary deter-  
19 mines, on the Secretary’s own initiative, to impose monitor-  
20 ing or controls, or both, on the export of metallic materials  
21 capable of being recycled, under the authority of this section,  
22 the Secretary shall publish the reasons for such action in ac-  
23 cordance with paragraph (3) (A) and (B) of this subsection.

24 “(10) Nothing contained in this subsection shall be con-  
25 strued to preclude submission on a confidential basis to the



1 Secretary of information relevant to a decision to impose or  
2 remove monitoring or controls under the authority of this  
3 Act, or to preclude consideration of such information by the  
4 Secretary in reaching decisions required under this subsec-  
5 tion. The provisions of this paragraph shall not be construed  
6 to affect the applicability of section 552(b) of title 5, United  
7 States Code.”.

## 8 SHORT SUPPLY CONTROLS

9 SEC. 110. (a) Section 7(d) of the Act (50 U.S.C. App.  
10 2406(d)) is amended—

11 (1) in paragraph (1) by striking out “unless” and  
12 all that follows through “met” and inserting in lieu  
13 thereof “subject to paragraph (2) of this subsection”;

(2) in paragraph (2)(A) by striking out “makes  
and publishes” and inserting in lieu thereof “so recom-  
mends to the Congress after making and publishing”;

17 (3) in paragraph (2)(B)—

18 (A) by striking out “reports such findings”  
19 and inserting in lieu thereof “includes such find-  
20 ings in his recommendation”; and

(B) by striking out “thereafter” and all that follows through the end of the sentence and inserting in lieu thereof “after receiving that recommendation, agrees to a joint resolution which approves such exports on the basis of those findings, and which is thereafter enacted into law.”; and

1 (4) by adding at the end thereof the following:

2 “(4) Notwithstanding the provisions of section 20 of this  
3 Act, the provisions of this subsection shall expire on Septem-  
4 ber 30, 1990.”.

5 (b) Section 7(e)(1) of the Act is amended in the first  
6 sentence by striking out “No” and inserting in lieu thereof  
7 the following: “In any case in which the President deter-  
8 mines that it is necessary to impose export controls on re-  
9 fined petroleum products in order to carry out the policy set  
10 forth in section 3(2)(C) of this Act, the President shall notify  
11 the Congress of that determination. The President shall also  
12 notify the Congress if and when he determines that such  
13 export controls are no longer necessary. During any period in  
14 which a determination that such export controls are neces-  
15 sary is in effect, no”.

16 (c)(1) Section 7(i)(1) of the Act is amended—

17 (A) in the last sentence by inserting “harvested  
18 from State or Federal lands” after “red cedar logs”;

19 (B) by redesignating paragraphs (2), (3), and (4)  
20 as paragraphs (3), (4), and (5), respectively; and

21 (C) by inserting after paragraph (1) the following  
22 new paragraph:

23 “(2) To the maximum extent practicable, the Secretary  
24 shall utilize the multiple validated export licenses described

1 in section 4(a)(2) of this Act in lieu of validated licenses for  
2 exports under this subsection.”.

3 (2) Section 7(i)(5)(A) of the Act, as redesignated by  
4 paragraph (1)(B) of this subsection, is amended to read as  
5 follows:

6 “(A) lumber of American Lumber Standards  
7 Grades of Number 3 dimension or better, or Pacific  
8 Lumber Inspection Bureau Export R-List Grades of  
9 Number 3 common or better;”.

10 (d) Section 7(g)(3) of the Act is amended to read as fol-  
11 lows:

12 “(3)(A) If the President imposes export controls on any  
13 agricultural commodity in order to carry out the policy set  
14 forth in paragraph (2)(B), (2)(C), (7), or (8) of section 3 of this  
15 Act, the President shall immediately transmit a report on  
16 such action to the Congress, setting forth the reasons for the  
17 controls in detail and specifying the period of time, which  
18 may not exceed 1 year, that the controls are proposed to be  
19 in effect. If the Congress, within 60 days after the date of its  
20 receipt of the report, adopts a joint resolution pursuant to  
21 paragraph (4) approving the imposition of the export controls,  
22 then such controls shall remain in effect for the period speci-  
23 fied in the report, or until terminated by the President,  
24 whichever occurs first. If the Congress, within 60 days after  
25 the date of its receipt of such report, fails to adopt a joint

1 resolution approving such controls, then such controls shall  
2 cease to be effective upon the expiration of such 60-day  
3 period.

4 “(B) The provisions of subparagraph (A) and paragraph  
5 (4) shall not apply to export controls—

6 “(i) which are extended under this Act if the con-  
7 trols, when imposed, were approved by the Congress  
8 under subparagraph (A) and paragraph (4); or

9 “(ii) which are imposed with respect to a country  
10 as part of the prohibition or curtailment of all exports  
11 to that country.

12 “(4)(A) For purposes of this paragraph, the term ‘joint  
13 resolution’ means only a joint resolution the matter after the  
14 resolving clause of which is as follows: ‘That, pursuant to  
15 section 7(g)(3) of the Export Administration Act of 1979, the  
16 President may impose export controls as specified in the  
17 report submitted to the Congress on .’,  
18 with the blank space being filled with the appropriate date.

19 “(B) On the day on which a report is submitted to the  
20 House of Representatives and the Senate under paragraph  
21 (3), a joint resolution with respect to the export controls  
22 specified in such report shall be introduced (by request) in the  
23 House by the chairman of the Committee on Foreign Affairs,  
24 for himself and the ranking minority member of the Commit-  
25 tee, or by Members of the House designated by the chairman

1 and ranking minority member; and shall be introduced (by  
2 request) in the Senate by the majority leader of the Senate,  
3 for himself and the minority leader of the Senate, or by Mem-  
4 bers of the Senate designated by the majority leader and mi-  
5 nority leader of the Senate. If either House is not in session  
6 on the day on which such a report is submitted, the joint  
7 resolution shall be introduced in that House, as provided in  
8 the preceding sentence, on the first day thereafter on which  
9 that House is in session.

10       “(C) All joint resolutions introduced in the House of  
11 Representatives shall be referred to the appropriate commit-  
12 tee and all joint resolutions introduced in the Senate shall be  
13 referred to the Committee on Banking, Housing, and Urban  
14 Affairs.

15       “(D) If the committee of either House to which a joint  
16 resolution has been referred has not reported the joint resolu-  
17 tion at the end of 30 days after its referral, the committee  
18 shall be discharged from further consideration of the joint res-  
19 olution or of any other joint resolution introduced with re-  
20 spect to the same matter.

21       “(E) A joint resolution under this paragraph shall be  
22 considered in the Senate in accordance with the provisions of  
23 section 601(b)(4) of the International Security Assistance and  
24 Arms Export Control Act of 1976. For the purpose of expe-  
25 diting the consideration and passage of joint resolutions under

1 this paragraph, it shall be in order for the Committee on  
2 Rules of the House of Representatives (notwithstanding the  
3 provisions of clause 4(b) of Rule XI of the Rules of the House  
4 of Representatives) to present for immediate consideration,  
5 on the day reported, a resolution of the House of Representa-  
6 tives providing procedures for the consideration of a joint res-  
7 olution under this paragraph similar to the procedures set  
8 forth in section 601(b)(4) of the International Security Assist-  
9 ance and Arms Export Control Act of 1976.

10 “(F) In the case of a joint resolution described in sub-  
11 paragraph (A), if, before the passage by one House of a joint  
12 resolution of that House, that House receives a resolution  
13 with respect to the same matter from the other House,  
14 then—

15 “(i) the procedure in that House shall be the same  
16 as if no joint resolution had been received from the  
17 other House; but

18 “(ii) the vote on final passage shall be on the joint  
19 resolution of the other House.

20 “(5) In the computation of the period of 60 days re-  
21 ferred to in paragraph (3) and the period of 30 days referred  
22 to in subparagraph (D) of paragraph (4), there shall be ex-  
23 cluded the days on which either House of Congress is not in  
24 session because of an adjournment of more than 3 days to a

1 day certain or because of an adjournment of the Congress  
2 sine die.”.

3 (e) Section 7 of the Act is amended by striking out sub-  
4 section (j) and inserting in lieu thereof the following:

5 “(j) EFFECT OF CONTROLS ON EXISTING CON-  
6 TRACTS.—The export restrictions contained in subsection (i)  
7 of this section and any export controls imposed under this  
8 section shall not affect any contract to harvest unprocessed  
9 western red cedar from State lands which was entered into  
10 before October 1, 1979, and the performance of which would  
11 make the red cedar available for export. Any export controls  
12 imposed under this section on any agricultural commodity (in-  
13 cluding fats, oils, and animal hides and skins) or on any forest  
14 product or fishery product, shall not affect any contract to  
15 export entered into before the date on which such controls  
16 are imposed. For purposes of this subsection, the term ‘con-  
17 tract to export’ includes, but is not limited to, an export sales  
18 agreement and an agreement to invest in an enterprise which  
19 involves the export of goods or technology.”.

20 LICENSING PROCEDURES

21 SEC. 111. (a) Section 10 of the Act (50 U.S.C. App.  
22 2409) is amended—

23 (1) by striking out “60” each place it appears and  
24 inserting in lieu thereof “40”;

25 (2) by striking out “90” each place it appears and  
26 inserting in lieu thereof “60”; and

1           (3) by striking out “30” each place it appears and  
2           inserting in lieu thereof “20”.

3           (b)(1) Section 10(c) of the Act is amended by striking  
4           out “In each case” and inserting in lieu thereof “Except as  
5           provided in subsection (o), in each case”.

6           (2) Section 10(d) of the Act is amended—

7           (A) by striking out “In each case” and inserting  
8           in lieu thereof “Except in the case of exports described  
9           in subsection (o), in each case”; and

10          (B) by adding at the end thereof the following:  
11        “Notwithstanding the 10-day period set forth in subsection  
12        (b), in the case of exports described in subsection (o), in each  
13        case in which the Secretary determines that it is necessary to  
14        refer an application to any other department or agency for its  
15        information and recommendations, the Secretary shall, imme-  
16        diately upon receipt of the properly completed application,  
17        refer the application to such department or agency for its  
18        review. Such review shall be concurrent with that of the De-  
19        partment of Commerce.”.

20          (3) Section 10(e) of the Act is amended—

21          (A) in paragraph (1) by striking out the first sen-  
22          tence and inserting in lieu thereof the following: “Any  
23          department or agency to which an application is re-  
24          ferred pursuant to subsection (d) shall submit to the  
25          Secretary the information or recommendations request-



1       ed with respect to the application. The information or  
2       recommendations shall be submitted within 20 days  
3       after the department or agency receives the application  
4       or, in the case of exports described in subsection (o),  
5       before the expiration of the time periods permitted by  
6       that subsection.”; and

7       (B) in paragraph (2)—

- 8               (i) by striking out “If the head” and insert-  
9               ing in lieu thereof “(A) Except in the case of ex-  
10              ports described in subsection (o), if the head”, and  
11              (ii) by adding at the end thereof the follow-  
12              ing:

13       “(B) In the case of exports described in subsection (o), if  
14       the head of any such department or agency notifies the Sec-  
15       retary, before the expiration of the 15-day period provided in  
16       subsection (o)(1), that more time is required for review by  
17       such department or agency, the Secretary shall notify the  
18       applicant, pursuant to subsection (o)(1)(C), that additional  
19       time is required to consider the application, and such depart-  
20       ment or agency shall have additional time to consider the  
21       application within the limits permitted by subsection (o)(2). If  
22       such department or agency does not submit its recommenda-  
23       tions within the time periods permitted under subsection (o),  
24       it shall be deemed by the Secretary to have no objection to  
25       the approval of such application.”.

1       (4) Section 10(f) of the Act is amended in paragraphs (1)  
2 and (4) by adding at the end of each such paragraph the  
3 following: “The provisions of this paragraph shall not apply  
4 in the case of exports described in subsection (o).”.

5       (c) Section 10(f)(2) of the Act is amended—

6           (1) by inserting “in writing” after “inform the ap-  
7 plicant”; and

8           (2) by striking out “, and shall accord” and all  
9 that follows through the end of the paragraph and in-  
10 sserting in lieu thereof the following: “. Before a final  
11 determination with respect to the application is made,  
12 the applicant shall be entitled—

13           “(A) to respond in writing to such questions,  
14 considerations, or recommendations within 30  
15 days after receipt of such information from the  
16 Secretary; and

17           “(B) upon the filing of a written request with  
18 the Secretary within 15 days after the receipt of  
19 such information, to respond in person to the de-  
20 partment or agency raising such questions, consid-  
21 erations, or recommendations.

22 The provisions of this paragraph shall not apply in the case of  
23 exports described in subsection (o).”.

24       (d) Section 10(f)(3) of the Act is amended by striking out  
25 the first sentence and inserting in lieu thereof the following:

1 “In cases where the Secretary has determined that an appli-  
2 cation should be denied, the applicant shall be informed in  
3 writing, within 5 days after such determination is made, of—

4 “(A) the determination,

5 “(B) the statutory basis for the proposed denial,

6 “(C) the policies set forth in section 3 of this Act  
7 which would be furthered by the proposed denial,

8 “(D) what if any modifications in or restrictions  
9 on the goods or technology for which the license was  
10 sought would allow such export to be compatible with  
11 export controls imposed under this Act,

12 “(E) which officers and employees of the Depart-  
13 ment of Commerce who are familiar with the applica-  
14 tion will be made reasonably available to the applicant  
15 for considerations with regard to such modifications or  
16 restrictions, if appropriate,

17 “(F) to the extent consistent with the national se-  
18 curity and foreign policy of the United States, the spe-  
19 cific considerations which led to the determination to  
20 deny the application, and

21 “(G) the availability of appeal procedures.

22 The Secretary shall allow the applicant at least 30 days to  
23 respond to the Secretary’s determination before the license  
24 application is denied.”.

25 (e) Section 10 of the Act is amended—

1           (1) in the section heading by adding “; OTHER IN-  
2           QUIRIES” after “APPLICATIONS”; and

3           (2) by adding at the end thereof the following new  
4           subsections:

5           “(k) CHANGES IN REQUIREMENTS FOR APPLICA-  
6           TIONS.—Except as provided in subsection (b)(3) of this sec-  
7           tion, in any case in which, after a license application is sub-  
8           mitted, the Secretary changes the requirements for such a  
9           license application, the Secretary may request appropriate  
10          additional information of the applicant, but the Secretary may  
11          not return the application to the applicant without action be-  
12          cause it fails to meet the changed requirements.

13          “(l) OTHER INQUIRIES.—(1) In any case in which the  
14          Secretary receives a written request asking for the proper  
15          classification of a good or technology on the control list, the  
16          Secretary shall, within 10 working days after receipt of the  
17          request, inform the person making the request of the proper  
18          classification.

19          “(2) In any case in which the Secretary receives a writ-  
20          ten request for information about the applicability of export  
21          license requirements under this Act to a proposed export  
22          transaction or series of transactions, the Secretary shall,  
23          within 30 days after receipt of the request, reply with that  
24          information to the person making the request.

1       “(m) SMALL BUSINESS ASSISTANCE.—Not later than  
2 120 days after the date of the enactment of this subsection,  
3 the Secretary shall develop and transmit to the Congress a  
4 plan to assist small businesses in the export licensing applica-  
5 tion process under this Act. The plan shall include, among  
6 other things, arrangements for counseling small businesses on  
7 filing applications and identifying goods or technology on the  
8 control list, proposals for seminars and conferences to edu-  
9 cate small businesses on export controls and licensing proce-  
10 dures, and the preparation of informational brochures.

11       “(n) REPORTS ON LICENSE APPLICATIONS.—(1) Not  
12 later than 180 days after the date of the enactment of this  
13 subsection, and not later than the end of each 3-month period  
14 thereafter, the Secretary shall submit to the Committee on  
15 Foreign Affairs of the House of Representatives and to the  
16 Committee on Banking, Housing, and Urban Affairs of the  
17 Senate a report listing—

18               “(A) all applications on which action was com-  
19 pleted during the preceding 3-month period and which  
20 required a period longer than the period permitted  
21 under subsection (c), (f)(1), or (h) of this section, as the  
22 case may be, before notification of a decision to ap-  
23 prove or deny the application was sent to the appli-  
24 cant; and

1           “(B) in a separate section, all applications which  
2       have been in process for a period longer than the  
3       period permitted under subsection (c), (f)(1), or (h) of  
4       this section, as the case may be, and upon which final  
5       action has not been taken.

6       “(2) With regard to each application, each listing shall  
7       identify—

8           “(A) the application case number;

9           “(B) the value of the goods or technology to  
10       which the application relates;

11          “(C) the country of destination of the goods or  
12       technology;

13          “(D) the date on which the application was re-  
14       ceived by the Secretary;

15          “(E) the date on which the Secretary approved or  
16       denied the application;

17          “(F) the date on which the notification of approval  
18       or denial of the application was sent to the applicant;  
19       and

20          “(G) the total number of days which elapsed be-  
21       tween receipt of the application, in its properly com-  
22       pleted form, and the earlier of the last day of the 3-  
23       month period to which the report relates, or the date  
24       on which notification of approval or denial of the appli-  
25       cation was sent to the applicant.

1       “(3) With respect to an application which was referred  
2 to other departments or agencies, the listing shall also in-  
3 clude—

4               “(A) the departments or agencies to which the ap-  
5 plication was referred;

6               “(B) the date or dates of such referral; and

7               “(C) the date or dates on which recommendations  
8 were received from those departments or agencies.

9       “(4) With respect to an application referred to any other  
10 department or agency which did not submit or has not sub-  
11 mitted its recommendations on the application within the  
12 period permitted under subsection (e) of this section to submit  
13 such recommendations, the listing shall also include—

14               “(A) the office responsible for processing the ap-  
15 plication and the position of the officer responsible for  
16 the office; and

17               “(B) the period of time that elapsed before the  
18 recommendations were submitted or that has elapsed  
19 since referral of the application, as the case may be.

20       “(5) Each report shall also provide an introduction  
21 which contains—

22               “(A) a summary of the number of applications de-  
23 scribed in paragraph (1) (A) and (B) of this subsection,  
24 and the value of the goods or technology involved in  
25 the applications, grouped according to—

1           “(i) the number of days which elapsed before  
2           action on the applications was completed, or  
3           which has elapsed without action on the applica-  
4           tions being completed, as follows: 61 to 75 days,  
5           76 to 90 days, 91 to 105 days, 106 to 120 days,  
6           and more than 120 days; and

7           “(ii) the number of days which elapsed before  
8           action on the applications was completed, or  
9           which has elapsed without action on the applica-  
10          tions being completed, beyond the period permit-  
11          ted under subsection (c), (f)(1), or (h) of this sec-  
12          tion for the processing of applications, as follows:  
13          not more than 15 days, 16 to 30 days, 31 to 45  
14          days, 46 to 60 days, and more than 60 days; and

15          “(B) a summary by country of destination of the  
16          number of applications described in paragraph (1) (A)  
17          and (B) of this subsection, and the value of the goods  
18          or technology involved in the applications, on which  
19          action was not completed within 60 days.

20          “(o) EXPORTS TO MEMBERS OF COORDINATING COM-  
21          MITTEE.—(1) Fifteen working days after the date of formal  
22          filing with the Secretary of an individual validated license  
23          application for the export of goods or technology to a country  
24          that maintains export controls on such goods or technology  
25          pursuant to the agreement of the governments participating



1 in the group known as the Coordinating Committee, a license  
2 for the transaction specified in the application shall become  
3 valid and effective and the goods or technology are author-  
4 ized for export pursuant to such license unless—

5 “(A) the application has been otherwise approved  
6 by the Secretary, in which case it shall be valid and  
7 effective according to the terms of the approval;

8 “(B) the application has been denied by the Secre-  
9 tary pursuant to this section and the applicant has  
10 been so informed, or the applicant has been informed,  
11 pursuant to subsection (f)(3) of this section, that the ap-  
12 plication should be denied; or

13 “(C) the Secretary requires additional time to con-  
14 sider the application and the applicant has been so in-  
15 formed.

16 “(2) In the event that the Secretary notifies an applicant  
17 pursuant to paragraph (1)(C) that more time is required to  
18 consider an individual validated license application, a license  
19 for the transaction specified in the application shall become  
20 valid and effective and the goods or technology are author-  
21 ized for export pursuant to such license 30 working days  
22 after the date that such license application was formally filed  
23 with the Secretary unless—

1           “(A) the application has been otherwise approved  
2       by the Secretary, in which case it shall be valid and  
3       effective according to the terms of the approval; or

4           “(B) the application has been denied by the Secre-  
5       tary pursuant to this section and the applicant has  
6       been so informed, or the applicant has been informed,  
7       pursuant to subsection (f)(3) of this section, that the ap-  
8       plication should be denied.

9       “(3) In reviewing an individual license application sub-  
10   ject to this subsection, the Secretary shall evaluate the infor-  
11   mation set forth in the application and the reliability of the  
12   end-user.

13       “(4) Nothing in this subsection shall affect the scope or  
14   availability of licenses authorizing multiple exports set forth  
15   in section 4(a)(2) of this Act.

16       “(5) The provisions of this subsection shall take effect 4  
17 months after the date of the enactment of the Export Admin-  
18 istration Amendments Act of 1985.”.

## 19 VIOLATIONS

20 SEC. 112. (a) Section 11(a) of the Act (50 U.S.C. App.  
21 2410(a)) is amended by inserting after “violates” the follow-  
22 ing: “or conspires to or attempts to violate”.

23 (b) Section 11(b) of the Act is amended—

24 (1) in paragraph (1)—

1 (A) by striking out “exports anything con-  
2 trary to” and inserting in lieu thereof “violates or  
3 conspires to or attempts to violate”;

4 (B) by striking out “such exports” and in-  
5 serting in lieu thereof “the exports involved”;

6 (C) by inserting after “benefit of” the follow-  
7 ing: “, or that the destination or intended destina-  
8 tion of the goods or technology involved is,”; and

9 (D) by striking out “country to which ex-  
10 ports are restricted for national security or” and  
11 inserting in lieu thereof “controlled country or  
12 any country to which exports are controlled for”;

13 (2) in paragraph (2) by striking out the last sen-  
14 tence; and

15 (3) by adding after paragraph (2) the following  
16 new paragraphs:

17 “(3) Any person who possesses any goods or technolo-  
18 gy—

19 “(A) with the intent to export such goods or tech-  
20 nology in violation of an export control imposed under  
21 section 5 or 6 of this Act or any regulation, order, or  
22 license issued with respect to such control, or

23 “(B) knowing or having reason to believe that the  
24 goods or technology would be so exported,

1 shall, in the case of a violation of an export control imposed  
2 under section 5 (or any regulation, order, or license issued  
3 with respect to such control), be subject to the penalties set  
4 forth in paragraph (1) of this subsection and shall, in the case  
5 of a violation of an export control imposed under section 6 (or  
6 any regulation, order, or license issued with respect to such  
7 control), be subject to the penalties set forth in subsection (a).

8       “(4) Any person who takes any action with the intent to  
9 evade the provisions of this Act or any regulation, order, or  
10 license issued under this Act shall be subject to the penalties  
11 set forth in subsection (a), except that in the case of an eva-  
12 sion of an export control imposed under section 5 or 6 of this  
13 Act (or any regulation, order, or license issued with respect  
14 to such control), such person shall be subject to the penalties  
15 set forth in paragraph (1) of this subsection.

16       “(5) Nothing in this subsection or subsection (a) shall  
17 limit the power of the Secretary to define by regulations vio-  
18 lations under this Act.”.

19       (c) Section 11(c) of the Act is amended—

20               (1) by striking out “head” and all that follows in  
21 paragraph (1) through “thereof” and inserting in lieu  
22 thereof “Secretary (and officers and employees of the  
23 Department of Commerce specifically designated by  
24 the Secretary)”; and

1           (2) by adding at the end thereof the following new  
2       paragraphs:

3       “(3) An exception may not be made to any order issued  
4       under this Act which revokes the authority of a United States  
5       person to export goods or technology unless the Committee  
6       on Foreign Affairs of the House of Representatives and the  
7       Committee on Banking, Housing, and Urban Affairs of the  
8       Senate are first consulted concerning the exception.

9       “(4) The President may by regulation provide standards  
10      for establishing levels of civil penalty provided in this subsec-  
11      tion based upon the seriousness of the violation, the culpabil-  
12      ity of the violator, and the violator’s record of cooperation  
13      with the Government in disclosing the violation.”.

14      (d) Section 11(e) of the Act is amended—

15           (1) by inserting after “subsection (c)” the follow-  
16      ing: “or any amounts realized from the forfeiture of  
17      any property interest or proceeds pursuant to subsec-  
18      tion (g)”;

19           (2) by inserting after “refund any such penalty”  
20      the following: “imposed pursuant to subsection (c)”.

21      (e) Section 11 of the Act is amended by redesignating  
22      subsection (g) as subsection (i) and by inserting after subsec-  
23      tion (f) the following new subsections:

24      “(g) **FORFEITURE OF PROPERTY INTEREST AND PRO-**  
25      **CEEDS.**—(1) Any person who is convicted under subsection

1 (a) or (b) of a violation of an export control imposed under  
2 section 5 of this Act (or any regulation, order, or license  
3 issued with respect to such control) shall, in addition to any  
4 other penalty, forfeit to the United States—

5 “(A) any of that person’s interest in, security of,  
6 claim against, or property or contractual rights of any  
7 kind in the goods or tangible items that were the sub-  
8 ject of the violation;

9 “(B) any of that person’s interest in, security of,  
10 claim against, or property or contractual rights of any  
11 kind in tangible property that was used in the export  
12 or attempt to export that was the subject of the viola-  
13 tion; and

14 “(C) any of that person’s property constituting, or  
15 derived from, any proceeds obtained directly or indi-  
16 rectly as a result of the violation.

17 “(2) The procedures in any forfeiture under this subsec-  
18 tion, and the duties and authority of the courts of the United  
19 States and the Attorney General with respect to any forfeit-  
20 ure action under this subsection or with respect to any prop-  
21 erty that may be subject to forfeiture under this subsection,  
22 shall be governed by the provisions of section 1963 of title  
23 18, United States Code.

24 “(h) PRIOR CONVICTIONS.—No person convicted of a  
25 violation of section 793, 794, or 798 of title 18, United

1 States Code, section 4(b) of the Internal Security Act of  
 2 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export  
 3 Control Act (22 U.S.C. 2778) shall be eligible, at the discre-  
 4 tion of the Secretary, to apply for or use any export license  
 5 under this Act for a period for up to 10 years from the date of  
 6 the conviction. The Secretary may revoke any export license  
 7 under this Act in which such person has an interest at the  
 8 time of the conviction.”.

9 (f) Section 11(i) of the Act, as redesignated by subsec-  
 10 tion (e) of this section, is amended by striking out “or (f)” and  
 11 inserting in lieu thereof “(f), (g), or (h)”.

#### 12 ENFORCEMENT

13 SEC. 113. (a) Section 12(a) of the Act (50 U.S.C. App.  
 14 2411(a)) is amended—

15 (1) by inserting “(1)” immediately before the first  
 16 sentence;

17 (2) by striking out “such investigations and” and  
 18 inserting in lieu thereof “such investigations within the  
 19 United States, and the Commissioner of Customs (and  
 20 officers or employees of the United States Customs  
 21 Service specifically designated by the Commissioner)  
 22 may make such investigations outside of the United  
 23 States, and the head of such department or agency  
 24 (and such officers or employees) may”;

25 (3) by striking out “the district court of the  
 26 United States for any district in which such person is

1 found or resides or transacts business, upon application,  
2 and” and inserting in lieu thereof “a district court of  
3 the United States,”;

4 (4) by adding at the end thereof the following new  
5 sentence: “In addition to the authority conferred by  
6 this paragraph, the Secretary (and officers or employ-  
7 ees of the Department of Commerce designated by the  
8 Secretary) may conduct, outside the United States,  
9 pre-license investigations and post-shipment verifica-  
10 tions of items licensed for export, and investigations in  
11 the enforcement of section 8 of this Act.”; and

12 (5) by adding at the end thereof the following new  
13 paragraphs:

14 “(2)(A) Subject to subparagraph (B) of this paragraph,  
15 the United States Customs Service is authorized, in the en-  
16 forcement of this Act, to search, detain (after search), and  
17 seize goods or technology at those ports of entry or exit from  
18 the United States where officers of the Customs Service are  
19 authorized by law to conduct such searches, detentions, and  
20 seizures, and at those places outside the United States where  
21 the Customs Service, pursuant to agreements or other ar-  
22 rangements with other countries, is authorized to perform en-  
23 forcement activities.



1       “(B) An officer of the United States Customs Service  
2 may do the following in carrying out enforcement authority  
3 under this Act:

4           “(i) Stop, search, and examine a vehicle, vessel,  
5 aircraft, or person on which or whom such officer has  
6 reasonable cause to suspect there are any goods or  
7 technology that has been, is being, or is about to be  
8 exported from the United States in violation of this  
9 Act.

10       “(ii) Search any package or container in which  
11 such officer has reasonable cause to suspect there are  
12 any goods or technology that has been, is being, or is  
13 about to be exported from the United States in viola-  
14 tion of this Act.

15       “(iii) Detain (after search) or seize and secure for  
16 trial any goods or technology on or about such vehicle,  
17 vessel, aircraft, or person, or in such package or con-  
18 tainer, if such officer has probable cause to believe the  
19 goods or technology has been, is being, or is about to  
20 be exported from the United States in violation of this  
21 Act.

22       “(iv) Make arrests without warrant for any viola-  
23 tion of this Act committed in his or her presence or  
24 view or if the officer has probable cause to believe that

1       the person to be arrested has committed or is committing such a violation.

3       The arrest authority conferred by clause (iv) of this subparagraph is in addition to any arrest authority under other laws.

5       “(3)(A) Subject to subparagraph (B) of this paragraph, the Secretary shall have the responsibility for the enforcement of section 8 of this Act and, in the enforcement of the other provisions of this Act, the Secretary is authorized to search, detain (after search), and seize goods or technology at those places within the United States other than those ports specified in paragraph (2)(A) of this subsection. The search, detention (after search), or seizure of goods or technology at those ports and places specified in paragraph (2)(A) may be conducted by officers or employees of the Department of Commerce designated by the Secretary with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

18       “(B) The Secretary may designate any officer or employee of the Department of Commerce to do the following in carrying out enforcement authority under this Act:

21               “(i) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of the provisions of this Act.

24               “(ii) Make arrests without warrant for any violation of this Act committed in his or her presence or

1 view, or if the officer or employee has probable cause  
2 to believe that the person to be arrested has committed  
3 or is committing such a violation.

4 “(iii) Carry firearms in carrying out any activity  
5 described in clause (i) or (ii).

6 “(4) All cases involving violations of this Act shall be  
7 referred to the Secretary for purposes of determining civil  
8 penalties and administrative sanctions under section 11(c) of  
9 this Act, or to the Attorney General for criminal action in  
10 accordance with this Act.

11 “(5) Notwithstanding any other provision of law, the  
12 United States Customs Service may expend in the enforce-  
13 ment of export controls under this Act not more than  
14 \$12,000,000 in the fiscal year 1985 and not more than  
15 \$14,000,000 in the fiscal year 1986.

16 “(6) Not later than 90 days after the date of the enact-  
17 ment of the Export Administration Amendments Act of  
18 1985, the Secretary, with the concurrence of the Secretary of  
19 the Treasury, shall publish in the Federal Register proce-  
20 dures setting forth, in accordance with this subsection, the  
21 responsibilities of the Department of Commerce and the  
22 United States Customs Service in the enforcement of this  
23 Act. In addition, the Secretary, with the concurrence of the  
24 Secretary of the Treasury, may publish procedures for the  
25 sharing of information in accordance with subsection (c)(3) of

1 this section, and procedures for the submission to the appro-  
2 priate departments and agencies by private persons of infor-  
3 mation relating to the enforcement of this Act.

4 “(7) For purposes of this section, a reference to the en-  
5 forcement of this Act or to a violation of this Act includes a  
6 reference to the enforcement or a violation of any regulation,  
7 order, or license issued under this Act.”.

8 (b) Section 12(c)(3) of the Act is amended—

9 (1) by striking out “Departments or agencies  
10 which obtain” and inserting in lieu thereof “Any de-  
11 partment or agency which obtains”;

12 (2) by inserting “, including information pertaining  
13 to any investigation,” after “enforcement of this Act”;

14 (3) by striking out “the department” and inserting  
15 in lieu thereof “each department”; and

16 (4) by adding at the end thereof the following:

17 “The Secretary and the Commissioner of Customs,  
18 upon request, shall exchange any licensing and enforce-  
19 ment information with each other which is necessary to  
20 facilitate enforcement efforts and effective license deci-  
21 sions. The Secretary, the Attorney General, and the  
22 Commissioner of Customs shall consult on a continuing  
23 basis with one another and with the heads of other de-  
24 partments and agencies which obtain information sub-

1       ject to this paragraph, in order to facilitate the ex-  
2       change of such information.”.

3                               ADMINISTRATIVE PROCEDURE

4       SEC. 114. Section 13 of the Act (50 U.S.C. App. 2412)  
5       is amended by adding at the end thereof the following:

6       “(c) PROCEDURES RELATING TO CIVIL PENALTIES  
7       AND SANCTIONS.—(1) In any case in which a civil penalty or  
8       other civil sanction (other than a temporary denial order or a  
9       penalty or sanction for a violation of section 8) is sought  
10      under section 11 of this Act, the charged party is entitled to  
11      receive a formal complaint specifying the charges and, at his  
12      or her request, to contest the charges in a hearing before an  
13      administrative law judge. Before such hearing is held, the  
14      charged party may submit a response to the complaint, in-  
15      cluding briefs and other supporting materials. The charged  
16      party and the Government may present and cross-examine  
17      relevant witnesses. With the approval of the administrative  
18      law judge, the Government may present evidence in camera  
19      in the presence of the charged party or his or her representa-  
20      tive. The charged party may argue orally his or her case in  
21      recorded proceedings before the administrative law judge,  
22      who shall then make findings of fact and conclusions of law in  
23      a written decision, which shall be referred to the Secretary.  
24      The Secretary shall, in a written order, affirm, modify, or  
25      vacate the decision of the administrative law judge within 30

1 days after receiving the decision. The order of the Secretary  
2 shall be final and is not subject to judicial review.

3 “(2) The proceedings described in paragraph (1) shall be  
4 concluded within a period of 1 year after the complaint is  
5 submitted, unless the administrative law judge extends such  
6 period for good cause shown.

7 “(d) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

8 (1) In any case in which it is necessary, in the public interest,  
9 to prevent an imminent violation of this Act or any regula-  
10 tion, order, or license issued under this Act, the Secretary  
11 may, without a hearing, issue an order temporarily denying  
12 United States export privileges (hereinafter in this subsection  
13 referred to as a ‘temporary denial order’) to a person. A tem-  
14 porary denial order may be effective no longer than 60 days  
15 unless renewed in writing by the Secretary for additional 60-  
16 day periods in order to prevent such an imminent violation,  
17 except that a temporary denial order may be renewed only  
18 after notice and an opportunity for a hearing is provided.

19 “(2) A temporary denial order shall define the imminent  
20 violation and state why the temporary denial order was  
21 granted without a hearing. The person or persons subject to  
22 the issuance or renewal of a temporary denial order may file  
23 an appeal of the issuance or renewal of the temporary denial  
24 order with an administrative law judge who shall, within 10  
25 working days after the appeal is filed, recommend that the

1 temporary denial order be affirmed, modified, or vacated.  
2 Parties may submit briefs and other material to the judge.  
3 The recommendation of the administrative law judge shall be  
4 submitted to the Secretary who shall either accept, reject, or  
5 modify the recommendation by written order within 5 work-  
6 ing days after receiving the recommendation. The written  
7 order of the Secretary under the preceding sentence shall be  
8 final and is not subject to judicial review. The temporary  
9 denial order shall be affirmed only if it is reasonable to be-  
10 lieve that the order is required in the public interest to pre-  
11 vent an imminent violation of this Act or any regulation,  
12 order, or license issued under this Act.

13       “(e) APPEALS FROM LICENSE DENIALS.—A determi-  
14 nation of the Secretary, under section 10(f) of this Act, to  
15 deny a license may be appealed by the applicant to an admin-  
16 istrative law judge who shall have the authority to conduct  
17 proceedings to determine only whether the item sought to be  
18 exported is in fact on the control list. Such proceedings shall  
19 be conducted within 90 days after the appeal is filed. Any  
20 determination by an administrative law judge under this sub-  
21 section and all materials filed before such judge in the pro-  
22 ceedings shall be reviewed by the Secretary, who shall either  
23 affirm or vacate the determination in a written decision  
24 within 30 days after receiving the determination. The Secre-  
25 tary’s written decision shall be final and is not subject to

1 judicial review. Subject to the limitations provided in section  
2 12(c) of this Act, the Secretary's decision shall be published  
3 in the Federal Register.

4           “(f) APPOINTMENT OF ADMINISTRATIVE LAW  
5 JUDGES.—Any person who, for at least 2 of the 10 years  
6 immediately preceding the date of the enactment of the  
7 Export Administration Amendments Act of 1985, has served  
8 as a hearing commissioner of the Department of Commerce,  
9 shall be considered as qualified for selection and appointment  
10 as an administrative law judge under section 3105 of title 5,  
11 United States Code.”.

## 12 ANNUAL REPORT

13 SEC. 115. Section 14 of the Act (50 U.S.C. App. 2413)  
14 is amended by adding at the end thereof the following:

15       “(d) REPORT ON EXPORTS TO CONTROLLED COUN-  
16 TRIES.—The Secretary shall include in each annual report a  
17 detailed report which lists every license for exports to con-  
18 trolled countries which was approved under this Act during  
19 the preceding fiscal year. Such report shall specify to whom  
20 the license was granted, the type of goods or technology ex-  
21 ported, and the country receiving the goods or technology.  
22 The information required by this subsection shall be subject  
23 to the provisions of section 12(c) of this Act.

24 “(e) REPORT ON DOMESTIC ECONOMIC IMPACT OF  
25 EXPORTS TO CONTROLLED COUNTRIES.—The Secretary  
26 shall include in each annual report a detailed description of



1 the extent of injury to United States industry and the extent  
 2 of job displacement caused by United States exports of goods  
 3 and technology to controlled countries. The annual report  
 4 shall also include a full analysis of the consequences of ex-  
 5 ports of turnkey plants and manufacturing facilities to con-  
 6 trolled countries which are used by such countries to produce  
 7 goods for export to the United States or to compete with  
 8 United States products in export markets.”.

9 UNDER SECRETARY OF COMMERCE FOR EXPORT

10 ADMINISTRATION; REGULATIONS

11 SEC. 116. (a) Section 15 of the Export Administration  
 12 Act of 1979 is amended to read as follows:

13 “ADMINISTRATIVE AND REGULATORY AUTHORITY

14 “SEC. 15. (a) UNDER SECRETARY OF COMMERCE.—

15 The President shall appoint, by and with the advice and con-  
 16 sent of the Senate, an Under Secretary of Commerce for  
 17 Export Administration who shall carry out all functions of  
 18 the Secretary under this Act which were delegated to the  
 19 office of the Assistant Secretary of Commerce for Trade Ad-  
 20 ministration before the effective date of the Export Adminis-  
 21 tration Amendments Act of 1985 and such other functions as  
 22 the Secretary may prescribe. The Secretary shall designate  
 23 three Assistant Secretaries of Commerce to assist the Under  
 24 Secretary in carrying out such functions.

25 “(b) ISSUANCE OF REGULATIONS.—The President and  
 26 the Secretary may issue such regulations as are necessary to

1 carry out the provisions of this Act. Any such regulations  
2 issued to carry out the provisions of section 5(a), 6(a), 7(a), or  
3 8(b) may apply to the financing, transporting, or other servic-  
4 ing of exports and the participation therein by any person.  
5 Any such regulations the purpose of which is to carry out the  
6 provisions of section 5, or of section 4(a) for the purpose of  
7 administering the provisions of section 5, may be issued only  
8 after the regulations are submitted for review to the Secre-  
9 tary of Defense, the Secretary of State, and such other de-  
10 partments and agencies as the Secretary considers appropri-  
11 ate. The preceding sentence does not require the concurrence  
12 or approval by any official, department, or agency to which  
13 such regulations are submitted.

14       “(c) AMENDMENTS TO REGULATIONS.—If the Secre-  
15 tary proposes to amend regulations issued under this Act, the  
16 Secretary shall report to the Committee on Banking, Hous-  
17 ing, and Urban Affairs of the Senate and the Committee on  
18 Foreign Affairs of the House of Representatives on the intent  
19 and rationale of such amendments. Such report shall evaluate  
20 the cost and burden to United States exporters of the pro-  
21 posed amendments in relation to any enhancement of licens-  
22 ing objectives. The Secretary shall consult with the technical  
23 advisory committees authorized under section 5(h) of this Act  
24 in formulating or amending regulations issued under this Act.  
25 The procedures defined by regulations in effect on January 1,

1 1984, with respect to sections 4 and 5 of this Act, shall  
2 remain in effect unless the Secretary determines, on the basis  
3 of substantial and reliable evidence, that specific change is  
4 necessary to enhance the prevention of diversions of exports  
5 which would prove detrimental to the national security of the  
6 United States or to reduce the licensing and paperwork  
7 burden on exporters and their distributors.”.

8 (b) Section 5314 of title 5, United States Code, is  
9 amended by inserting “Under Secretary of Commerce for  
10 Export Administration,” after “Under Secretary of Com-  
11 merce for Economic Affairs,”.

12 (c) Section 5315 of such title is amended by striking out  
13 “Assistant Secretaries of Commerce (8).”  
14 and inserting in lieu thereof

15 “Assistant Secretaries of Commerce (10).”.

16 (d) The provisions of section 15(a) of the Act, as amend-  
17 ed by subsection (a) of this section, and the amendments  
18 made by subsections (b) and (c) of this section shall take  
19 effect on October 1, 1985.

20 **DEFINITIONS**

21 **SEC. 117.** Section 16 of the Act (50 U.S.C. App. 2415)  
22 is amended—

23 (1) in paragraph (3), by inserting “natural or man-  
24 made substance,” after “article,”;

25 (2) by amending paragraph (4) to read as follows:

1           “(4) the term ‘technology’ means the information  
2           and know-how (whether in tangible form, such as  
3           models, prototypes, drawings, sketches, diagrams, blue-  
4           prints, or manuals, or in intangible form, such as train-  
5           ing or technical services) that can be used to design,  
6           produce, manufacture, utilize, or reconstruct goods, in-  
7           cluding computer software and technical data, but not  
8           the goods themselves;”;

9           (3) by redesignating paragraph (5) as paragraph  
10          (8); and

11          (4) by inserting after paragraph (4) the following  
12          new paragraphs:

13          “(5) the term ‘export’ means—

14                 “(A) an actual shipment, transfer, or trans-  
15                 mission of goods or technology out of the United  
16                 States;

17                 “(B) a transfer of goods or technology in the  
18                 United States to an embassy or affiliate of a con-  
19                 trolled country; or

20                 “(C) a transfer to any person of goods or  
21                 technology either within the United States or out-  
22                 side of the United States with the knowledge or  
23                 intent that the goods or technology will be  
24                 shipped, transferred, or transmitted to an unau-  
25                 thorized recipient;

1           “(6) the term ‘controlled country’ means a con-  
2       trolled country under section 5(b)(1) of this Act; and

3           “(7) the term ‘United States’ means the States of  
4       the United States, the District of Columbia, and any  
5       commonwealth, territory, dependency, or possession of  
6       the United States, and includes the outer Continental  
7       Shelf, as defined in section 2(a) of the Outer Continen-  
8       tal Shelf Lands Act (43 U.S.C. 1331(a)); and”.

9                               EFFECT ON OTHER ACTS

10       SEC. 118. (a) Section 17(a) of the Act (50 U.S.C. App.  
11   2416(a)) is amended by striking out “Nothing” and inserting  
12   in lieu thereof “Except as otherwise provided in this Act,  
13   nothing”.

14       (b) Section 17 of the Act is amended by adding at the  
15   end thereof the following:

16       “(f) AGRICULTURAL ACT OF 1970.—Nothing in this  
17   Act shall affect the provisions of the last sentence of section  
18   812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3).”.

19                               AUTHORIZATION OF APPROPRIATIONS

20       SEC. 119. Section 18 of the Act (50 U.S.C. App. 2417)  
21   is amended to read as follows:

22                               “AUTHORIZATION OF APPROPRIATIONS

23       “SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGIS-  
24   LATION.—(1) Notwithstanding any other provision of law,  
25   money appropriated to the Department of Commerce for ex-

1   pens to carry out the purposes of this Act may be obligated  
2   or expended only if—

3           “(A) the appropriation thereof has been previously  
4       authorized by law enacted on or after the date of the  
5       enactment of the Export Administration Amendments  
6       Act of 1985; or

7           “(B) the amount of all such obligations and ex-  
8       penditures does not exceed an amount previously pre-  
9       scribed by law enacted on or after such date.

10       “(2) To the extent that legislation enacted after the  
11   making of an appropriation to carry out the purposes of this  
12   Act authorizes the obligation or expenditure thereof, the limi-  
13   tation contained in paragraph (1) shall have no effect.

14       “(3) The provisions of this subsection shall not be super-  
15   seded except by a provision of law enacted after the date of  
16   the enactment of the Export Administration Amendments  
17   Act of 1985 which specifically repeals, modifies, or super-  
18   sedes the provisions of this subsection.

19       “(b) AUTHORIZATION.—There are authorized to be ap-  
20   propriated to the Department of Commerce to carry out the  
21   purposes of this Act—

22           “(1) \$24,600,000 for the fiscal year 1985, of  
23       which \$8,712,000 shall be available only for enforce-  
24       ment, \$1,851,000 shall be available only for foreign  
25       availability assessments under subsections (f) and (h)(6)

1 of section 5 of this Act, and \$14,037,000 shall be  
2 available for all other activities under this Act;

3 “(2) \$28,000,000 for the fiscal year 1986, of  
4 which \$10,000,000 shall be available only for enforce-  
5 ment, \$2,000,000 shall be available only for foreign  
6 availability assessments under subsections (f) and (h)(6)  
7 of section 5 of this Act, and \$16,000,000 shall be  
8 available for all other activities under this Act; and

9 “(3) such additional amounts for each of the fiscal  
10 years 1985 and 1986 as may be necessary for in-  
11 creases in salary, pay, retirement, other employee ben-  
12 efits authorized by law, and other nondiscretionary  
13 costs.”.

#### 14 TERMINATION OF AUTHORITY

15 SEC. 120. Section 20 of the Act (50 U.S.C. App. 2419)  
16 is amended to read as follows:

#### 17 “TERMINATION DATE

18 “SEC. 20. The authority granted by this Act terminates  
19 on September 30, 1989.”.

#### 20 IMPORT SANCTIONS

21 SEC. 121. Chapter 4 of title II of the Trade Expansion  
22 Act of 1962 (19 U.S.C. 1861 et seq.) is amended by adding  
23 at the end thereof the following new section:

#### 24 “SEC. 233. IMPORT SANCTIONS FOR EXPORT VIOLATIONS.

25 “(a) Any person who violates any national security  
26 export control imposed under section 5 of the Export Admin-

1   istration Act of 1979 (50 U.S.C. App. 2404), or any regula-  
2   tion, order, or license issued under that section, may be sub-  
3   ject to such controls on the importing of goods or technology  
4   into the United States as the President may prescribe.

5       “(b) Except as provided in subsection (a) of this section,  
6   any person who violates any regulation issued under a multi-  
7   lateral agreement, formal or informal, to control exports for  
8   national security purposes, to which the United States is a  
9   party, may be subject to such controls on the importing of  
10  goods or technology into the United States as the President  
11  may prescribe, but only if—

12       “(1) negotiations with the government or govern-  
13   ments, party to the multilateral agreement, with juris-  
14   diction over the violation have been conducted and  
15   been unsuccessful in restoring compliance with the reg-  
16   ulation involved;

17       “(2) the President, after the failure of such negoti-  
18   ations, has notified the government or governments de-  
19   scribed in paragraph (1) and the other parties to the  
20   multilateral agreement that the United States proposes  
21   to subject the person committing the violation to spe-  
22   cific controls on the importing of goods or technology  
23   into the United States upon the expiration of 60 days  
24   from the date of such notification; and



1           “(3) a majority of the parties to the multilateral  
2           agreement (other than the United States), before the  
3           end of that 60-day period, have expressed to the Presi-  
4           dent concurrence in the proposed import controls or  
5           have abstained from stating a position with respect to  
6           the proposed controls.”.

7           HOURS OF OFFICE OF EXPORT ADMINISTRATION

8           SEC. 122. The Secretary of Commerce shall modify the  
9           office hours of the Office of Export Administration of the De-  
10          partment of Commerce on at least four days of each work-  
11          week so as to accommodate communications to the Office by  
12          exporters throughout the continental United States during  
13          the normal business hours of those exporters.

14                           TECHNICAL AMENDMENT

15          SEC. 123. Section 38(e) of the Arms Export Control  
16          Act (22 U.S.C. 2778(e)) is amended by striking out “(f)” and  
17          inserting in lieu thereof “(g)”.

18          AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961

19          SEC. 124. Section 502B(a)(2) of the Foreign Assistance  
20          Act of 1961 (22 U.S.C. 2304(a)(2)) is amended by inserting  
21          after “Senate” the first place it appears the following: “and  
22          the chairman of the Committee on Banking, Housing, and  
23          Urban Affairs of the Senate (when licenses are to be issued  
24          pursuant to the Export Administration Act of 1979).”.

## EXPORT OF HORSES

1

2 SEC. 125. The Act of March 3, 1891 (46 U.S.C. 466a  
3 and 466b), is amended by adding at the end thereof the fol-  
4 lowing:

5 "SEC. 3. (a) Notwithstanding any other provision of  
6 law, no horse may be exported by sea from the United  
7 States, or any of its territories and possessions, unless such  
8 horse is part of a consignment of horses with respect to  
9 which a waiver has been granted under subsection (b).

10 "(b) The Secretary of Commerce, in consultation with  
11 the Secretary of Agriculture, may issue regulations providing  
12 for the granting of waivers permitting the export by sea of a  
13 specified consignment of horses, if the Secretary of Com-  
14 merce, in consultation with the Secretary of Agriculture, de-  
15 termines that no horse in that consignment is being exported  
16 for purposes of slaughter.

17 "(c)(1) Any person who knowingly violates this section  
18 or any regulation, order, or license issued under this section  
19 shall be fined not more than five times the value of the con-  
20 signment of horses involved or \$50,000, whichever is great-  
21 er, or imprisoned not more than 5 years, or both.

22 "(2) The Secretary of Commerce, after providing notice  
23 and an opportunity for an agency hearing on the record, may  
24 impose a civil penalty of not to exceed \$10,000 for each vio-  
25 lation of this section or any regulation, order, or license

1 issued under this section, either in addition to or in lieu of  
2 any other liability or penalty which may be imposed.”.

3 ALASKAN OIL STUDY

4 SEC. 126. (a)(1) The President shall undertake a com-  
5 prehensive review of the issues and related data concerning  
6 possible changes in the existing incentives to produce crude  
7 oil from the North Slope of Alaska (including changes in Fed-  
8 eral and State taxation, pipeline tariffs, and Federal leasing  
9 policies) and possible changes in the existing distribution of  
10 crude oil from the North Slope of Alaska (including changes  
11 in export restrictions which would permit exports at free  
12 market levels and at levels of fifty thousand barrels per day,  
13 one hundred thousand barrels per day, two hundred thousand  
14 barrels per day, and five hundred thousand barrels per day),  
15 as well as the appropriateness of continuing existing controls.  
16 Such review shall include, but not be limited to, a study of—

17 (A) the effect of such changes on the energy and  
18 national security of the United States and its allies;

19 (B) the role of such changes in United States for-  
20 eign policymaking, including international energy pol-  
21 icymaking;

22 (C) the impact of such changes on employment  
23 levels in the maritime industry, the oil industry, and  
24 other industries;

25 (D) the impact of such changes on the refiners  
26 and on consumers;

1           (E) the impact of such changes on the revenues  
2           and expenditures of the Federal Government and the  
3           government of Alaska;

4           (F) the effect of such changes on incentives for oil  
5           and gas exploration and development in the United  
6           States; and

7           (G) the effect of such changes on the overall trade  
8           deficit of the United States, and the trade deficit of the  
9           United States with respect to particular countries, in-  
10          cluding the effect of such changes on trade barriers of  
11          other countries.

12          (2) The President shall develop, after consulting with  
13          appropriate State and Federal officials and other persons,  
14          findings, options, and recommendations regarding the produc-  
15          tion and distribution of crude oil from the North Slope of  
16          Alaska.

17          (b) Not later than nine months after the date of the en-  
18          actment of this Act, the President shall transmit a report to  
19          the Congress containing the results of the review under sub-  
20          section (a)(1), and the findings, options, and recommendations  
21          developed under subsection (a)(2).

## 22           TITLE II—EXPORT PROMOTION PROGRAMS

### 23                   REQUIREMENT OF PRIOR AUTHORIZATION

24          SEC. 201. (a) Notwithstanding any other provision of  
25          law, money appropriated to the Department of Commerce for

1 expenses to carry out any export promotion program may be  
2 obligated or expended only if—

3 (1) the appropriation thereof has been previously  
4 authorized by law enacted on or after the date of the  
5 enactment of this Act; or

6 (2) the amount of all such obligations and expend-  
7 itures does not exceed an amount previously prescribed  
8 by law enacted on or after such date.

9 (b) To the extent that legislation enacted after the  
10 making of an appropriation to carry out any export promotion  
11 program authorizes the obligation or expenditure thereof, the  
12 limitation contained in subsection (a) shall have no effect.

13 (c) The provisions of this section shall not be superseded  
14 except by a provision of law enacted after the date of the  
15 enactment of this Act which specifically repeals, modifies, or  
16 supersedes the provisions of this section.

17 (d) For purposes of this title, the term “export promo-  
18 tion program” means any activity of the Department of Com-  
19 merce designed to stimulate or assist United States business-  
20 es in marketing their goods and services abroad competitively  
21 with businesses from other countries, including, but not limit-  
22 ed to—

23 (1) trade development (except for the trade adjust-  
24 ment assistance program) and dissemination of foreign  
25 marketing opportunities and other marketing informa-

1       tion to United States producers of goods and services,  
2       including the expansion of foreign markets for United  
3       States textiles and apparel and any other United States  
4       products;

5           (2) the development of regional and multilateral  
6       economic policies which enhance United States trade  
7       and investment interests, and the provision of market-  
8       ing services with respect to foreign countries and re-  
9       gions;

10          (3) the exhibition of United States goods in other  
11       countries; and

12          (4) the operations of the United States and For-  
13       eign Commercial Service, or any successor agency.

14                   AUTHORIZATION OF APPROPRIATIONS

15       SEC. 202. There is authorized to be appropriated  
16       \$113,273,000 for each of the fiscal years 1985 and 1986 to  
17       the Department of Commerce to carry out export promotion  
18       programs.

19                   BARTER ARRANGEMENTS

20       SEC. 203. (a) The Secretary of Agriculture shall, not  
21       later than 90 days after the date of the enactment of this Act,  
22       submit to the Congress a report on the status of Federal  
23       programs relating to the barter or exchange of commodities  
24       owned by the Commodity Credit Corporation for materials  
25       and products produced in foreign countries. Such report shall  
26       include details of any changes necessary in existing law to

1 allow the Department of Agriculture to implement fully any  
2 barter program.

3 (b) Notwithstanding any other provision of law, the  
4 President is authorized—

5 (1) to barter stocks of agricultural commodities ac-  
6 quired by the Government for petroleum and petroleum  
7 products, and for other materials vital to the national  
8 interest, which are produced abroad, in situations in  
9 which sales would otherwise not occur; and

10 (2) to purchase petroleum and petroleum products,  
11 and other materials vital to the national interest, which  
12 are produced abroad and acquired by persons in the  
13 United States through barter for agricultural commod-  
14 ities produced in and exported from the United States  
15 through normal commercial trade channels.

16 (c) The President shall take steps to ensure that, in  
17 making any barter described in subsection (a) or (b)(1) or any  
18 purchase authorized by subsection (b)(2), existing export mar-  
19 kets for agricultural commodities operating on conventional  
20 business terms are safeguarded from displacement by the  
21 barter described in subsection (a), (b)(1), or (b)(2), as the case  
22 may be. In addition, the President shall ensure that any such  
23 barter is consistent with the international obligations of the  
24 United States, including the General Agreement on Tariffs  
25 and Trade.

## 1                   TITLE III—NUCLEAR EXPORTS

## 2                   RESTRICTIONS ON CERTAIN EXPORTS

3           SEC. 301. (a) The Atomic Energy Act of 1954 (42  
4 U.S.C. 2011 et seq.) is amended by inserting after section  
5 131 the following new section

6           “SEC. 132. RESTRICTIONS ON CERTAIN EXPORTS.—

7           “a. (1) Notwithstanding any other provision of law—

8                   “(A) no license may be issued under the Export  
9 Administration Act of 1979 for the export to a non-  
10 nuclear-weapon state for use in a nuclear production or  
11 utilization facility of any item or related technical data  
12 which, as determined under section 309(c) of the Nu-  
13 clear Non-Proliferation Act of 1978, could be of signifi-  
14 cance for nuclear explosive purposes, or which, in the  
15 judgment of the Secretary of Commerce, is likely to be  
16 diverted for use in such a facility;

17                   “(B) the Nuclear Regulatory Commission shall  
18 not issue any license for the export to a non-nuclear-  
19 weapon state of a component part, item, or substance  
20 which the Commission has determined under section  
21 109 b. of this Act to be especially relevant from the  
22 standpoint of export control because of its significance  
23 for nuclear explosive purposes;



1           “(C) the Secretary of Energy shall not approve  
2       the retransfer to a non-nuclear-weapon state of any  
3       such component part, item, or substance; and

4           “(D) the Secretary of Energy shall not, under  
5       section 57 b. of this Act, authorize any person to  
6       engage, directly or indirectly, in the production of spe-  
7       cial nuclear material in a non-nuclear-weapon state;  
8       unless—

9           “(i) such state maintains International Atomic  
10      Energy Agency safeguards on all its peaceful nuclear  
11      activities, and

12          “(ii) either—

13               “(I) such export, retransfer, or production is  
14              under the terms of an agreement for cooperation  
15              arranged pursuant to section 123 of this Act, or

16               “(II) such state has entered into nuclear co-  
17              operation with the United States pursuant to an  
18              agreement for peaceful nuclear cooperation.

19       For purposes of this subsection, a ‘non-nuclear-weapon state’  
20       is a non-nuclear-weapon state within the meaning of the  
21       Treaty on the Non-Proliferation of Nuclear Weapons.

22          “(2) The restrictions contained in clause (ii) of para-  
23       graph (1) shall apply only to a country which is not a party to  
24       the Treaty on the Non-Proliferation of Nuclear Weapons or  
25       the Treaty for the Prohibition of Nuclear Weapons in Latin

1 America, or which the President determines is in a region of  
2 particular volatility or sensitivity.

3 “b. Nothing in this section shall preclude—

4 “(1) an export, retransfer, or activity generally li-  
5 censed or generally authorized by the Nuclear Regula-  
6 tory Commission, the Department of Commerce, or the  
7 Department of Energy;

8 “(2) assistance—

9 “(A) for the purpose of developing or apply-  
10 ing International Atomic Energy Agency safe-  
11 guards, or United States safeguards as set forth in  
12 an agreement for cooperation arranged pursuant  
13 to section 123 of this Act,

14 “(B) for programs of the International  
15 Atomic Energy Agency which are generally avail-  
16 able to its member states,

17 “(C) for reducing the use of highly enriched  
18 uranium in research or test reactors, or

19 “(D) for other technical programs for the  
20 purpose of reducing proliferation risks, such as  
21 programs to extend the life of reactor fuel and ac-  
22 tivities to which section 223 of the Nuclear Waste  
23 Policy Act of 1982 applies; or

24 “(3) assistance which is necessary for humanitari-  
25 an reasons to protect the public health and safety.

1       “c. The restrictions contained in subsection a. (1)(D)  
2 shall not apply to—

3           “(1) activities involving radiation protection and  
4       health physics, decontamination, or waste management;  
5       or

6           “(2) other assistance for the safe operation of a  
7       facility which is under International Atomic Energy  
8       Agency safeguards or United States safeguards.

9 The exception contained in the preceding sentence shall  
10 apply only in instances where the Secretary of State, in con-  
11 currence with the determination by the Secretary of Energy  
12 pursuant to section 57b. of this Act, determines that approval  
13 of such activities or assistance would further United States  
14 nonproliferation objectives with regard to the recipient coun-  
15 try. The Department of Energy shall notify the Committee  
16 on Foreign Affairs of the House of Representatives and the  
17 Committee on Foreign Relations of the Senate of all authori-  
18 zations issued under this subsection.

19       “d. The prohibitions contained in subsection a. shall not  
20 apply to a particular export, retransfer, or activity or group  
21 of exports, retransfers, or activities if—

22           “(1) the President determines that to apply the  
23       prohibitions thereto would be seriously prejudicial to  
24       the achievement of United States non-proliferation ob-

1       jectives or would otherwise jeopardize the common de-  
2       fense and security; and

3           “(2) at least sixty days before the export, re-  
4       transfer, or activity or initial export, retransfer, or ac-  
5       tivity is carried out, the President submits that deter-  
6       mination, together with the reasons for that determina-  
7       tion, to the Congress.

8       “e. With respect to any authorization described in sub-  
9       section a. (1)(D) which is made after August 1, 1983, the  
10      restrictions set forth in that subparagraph shall apply to any  
11      contract executed under that authorization after the date of  
12      the enactment of the Export Administration Amendments  
13      Act of 1985.”.

14      (b) The table of contents of the Atomic Energy Act of  
15      1954 is amended by inserting after the item relating to sec-  
16      tion 131 the following new item:

“Sec 132. Restrictions on certain exports ”

17                                   AGREEMENTS FOR COOPERATION

18      SEC. 402. (a) Section 123 of the Atomic Energy Act of  
19      1954 (42 U.S.C. 2153) is amended—

20           (1) in subsection a. by inserting “the consistency  
21      of the text of the agreement for cooperation with all  
22      the requirements of this Act,” after “Assessment  
23      Statement regarding”;

24           (2) in subsection b. by inserting before “the Presi-  
25      dent” the following: “after the submission of the text

1 of the proposed agreement for cooperation together  
2 with the accompanying nonclassified nuclear prolifera-  
3 tion assessment to the Committee on Foreign Relations  
4 of the Senate and the Committee on Foreign Affairs of  
5 the House of Representatives, and after consultation  
6 with such Committees for a period of not less than  
7 thirty days of continuous session (as defined in section  
8 130 g. of this Act) concerning the consistency of the  
9 terms of the proposed agreement with all the require-  
10 ments of this Act,"; and

11 (3) in subsection d. by inserting before the sen-  
12 tence which begins "Any such proposed agreement"  
13 the following: "During the sixty-day period the Com-  
14 mittee on Foreign Affairs of the House of Representa-  
15 tives and the Committee on Foreign Relations of the  
16 Senate shall each hold hearings on the proposed agree-  
17 ment for cooperation and submit a report to their re-  
18 spective bodies recommending whether it should be ap-  
19 proved or disapproved".

20 (b) Subsection d. of section 123 of the Atomic Energy  
21 Act of 1954 (42 U.S.C. 2153(d)) is amended—

22 (1) by striking out "adopts a concurrent resolu-  
23 tion" and inserting in lieu thereof "adopts, and there is  
24 enacted, a joint resolution";

1           (2) by striking out the period at the end of the  
 2       first proviso and inserting in lieu thereof “: *Provided*  
 3       *further*, That an agreement for cooperation exempted  
 4       by the President pursuant to subsection a. from any re-  
 5       quirement contained in that subsection shall not  
 6       become effective unless the Congress adopts, and there  
 7       is enacted, a joint resolution stating that the Congress  
 8       does favor such agreement.”; and

9           (3) by striking out “130 of this Act for the consid-  
 10      eration of Presidential submissions” and inserting in  
 11      lieu thereof “130 i. of this Act”.

12      (c) Section 130 a. of the Atomic Energy Act of 1954  
 13      (42 U.S.C. 2159(a)) is amended—

14           (1) in the first sentence—

15                   (A) by striking out “123 d.”; and

16                   (B) by striking out “, and in addition, in the  
 17       case of a proposed agreement for cooperation ar-  
 18       ranged pursuant to subsection 91 c., 144 b., or  
 19       144 c., the Committee on Armed Services of the  
 20       House of Representatives and the Committee on  
 21       Armed Services of the Senate,”; and

22           (2) in the proviso, by striking out “and if, in the  
 23       case of a proposed agreement for cooperation arranged  
 24       pursuant to subsection 91 c., 144 b., or 144 c. of this  
 25       Act, the other relevant committee of that House has

1       reported such a resolution, such committee shall be  
2       deemed discharged from further consideration of that  
3       resolution”.

4       (d) Section 130 of the Atomic Energy Act of 1954 is  
5       amended by adding at the end thereof the following:

6       “i. (1) For the purposes of this subsection, the term  
7       ‘joint resolution’ means a joint resolution, the matter after  
8       the resolving clause of which is as follows: ‘That the Con-  
9       gress (does or does not) favor the proposed agreement for  
10      cooperation transmitted to the Congress by the President on  
11      .’, with the date of the transmission of the proposed  
12      agreement for cooperation inserted in the blank, and the af-  
13      firmative or negative phrase within the parenthetical appro-  
14      priately selected.

15      “(2) On the day on which a proposed agreement for co-  
16      operation is submitted to the House of Representatives and  
17      the Senate under section 123 d., a joint resolution with re-  
18      spect to such agreement for cooperation shall be introduced  
19      (by request) in the House by the chairman of the Committee  
20      on Foreign Affairs, for himself and the ranking minority  
21      member of the Committee, or by Members of the House des-  
22      ignated by the chairman and ranking minority member; and  
23      shall be introduced (by request) in the Senate by the majority  
24      leader of the Senate, for himself and the minority leader of  
25      the Senate, or by Members of the Senate designated by the

1 majority leader and minority leader of the Senate. If either  
2 House is not in session on the day on which such an agree-  
3 ment for cooperation is submitted, the joint resolution shall  
4 be introduced in that House, as provided in the preceding  
5 sentence, on the first day thereafter on which that House is  
6 in session.

7       “(3) All joint resolutions introduced in the House of  
8 Representatives shall be referred to the appropriate commit-  
9 tee or committees and all joint resolutions introduced in the  
10 Senate shall be referred to the Committee on Foreign Rela-  
11 tions and any other appropriate committee.

12       “(4) If the committee of either House to which a joint  
13 resolution has been referred has not reported it at the end of  
14 45 days after its introduction, the committee shall be dis-  
15 charged from further consideration of the joint resolution or  
16 of any other joint resolution introduced with respect to the  
17 same matter; except that, in the case of a joint resolution  
18 which has been referred to more than one committee, if  
19 before the end of that 45-day period one such committee has  
20 reported the joint resolution, any other committee to which  
21 the joint resolution was referred shall be discharged from fur-  
22 ther consideration of the joint resolution or of any other joint  
23 resolution introduced with respect to the same matter.

24       “(5) A joint resolution under this subsection shall be  
25 considered in the Senate in accordance with the provisions of



1 section 601(b)(4) of the International Security Assistance and  
2 Arms Export Control Act of 1976. For the purpose of expe-  
3 diting the consideration and passage of joint resolutions under  
4 this subsection, it shall be in order for the Committee on  
5 Rules of the House of Representatives (notwithstanding the  
6 provisions of clause 4(b) of rule XI of the Rules of the House  
7 of Representatives) to present for immediate consideration,  
8 on the day reported, a resolution of the House of Representa-  
9 tives providing procedures for the consideration of a joint res-  
10 olution under this subsection similar to the procedures set  
11 forth in section 601(b)(4) of the International Security Assist-  
12 ance and Arms Export Control Act of 1976.

13       “(6) In the case of a joint resolution described in para-  
14 graph (1), if prior to the passage by one House of a joint  
15 resolution of that House, that House receives a joint resolu-  
16 tion with respect to the same matter from the other House,  
17 then—

18               “(A) the procedure in that House shall be the  
19 same as if no joint resolution had been received from  
20 the other House; but

21               “(B) the vote on final passage shall be on the  
22 joint resolution of the other House.”.

23       (e) The amendments made by this section shall apply to  
24 any agreement for cooperation which is entered into after the  
25 date of the enactment of this Act.

